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EDITORIAL COMMENT

The October REVIEW was already in press when John F. White resigned from the Indianapolis civil service commission, else his article in that issue would have carried a different concluding paragraph and the title, "Indianapolis at Last Tries the Merit System" would have been changed to a less optimistic note. The occasion for Mr. White's resignation was the mayor's overt and provocative disregard of the merit system principle in the discharge of the chief of police and the appointment of another in defiance of civil service rules. Now Mayor Duvall stands convicted by a jury for selling patronage in return for campaign contributions and again the people of Indianapolis find themselves betrayed. The mayor's broken pledge to introduce the merit system is one reason why the Hoosier city has gone city manager.

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As explained by Mr. Purdy in this number of the REVIEW, New York City is proposing to utilize the power of excess condemnation in connection with street openings as a means of building tenements to rent for $8 per room. The state law providing for limited dividend companies with power of eminent domain contemplates a rental for Manhattan of $12.50 per room per month, and what Mayor Walker intends to accomplish is nothing less than a direct subsidy to those who will be fortunate enough to become tenants of the apartment houses erected on the city owned land. Mr. Purdy justly condemns this unwise venture.

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The thirty-third annual meeting of the National Municipal League, to be held on the 10th and 11th of this month in New York, promises every success. Practically all the sessions will be in the form of round tables to enable intimate discussion of topics close to each particular member's heart. The program appeals to a variety of tastes. Topics of municipal finance, budget making, criminal justice, the slacker vote, control of public opinion, and university instruction in municipal government are included. Printed programs were mailed last month to all members and special invitations have been issued to a goodly number of public officials and citizens' organizations.

Anyone interested is cordially invited to attend any round table. A program with formal invitation will be mailed on request. But an interest in the subject is the only ticket of admission you need. Sessions will convene at 10 A. M. and 2 P. M. on Thursday and Friday, November 10 and 11, at the Association of the Bar, 42 West 44th Street, New York. On Friday

there will be a general luncheon at the City Club, 55 West 44th Street. It will be followed by the annual business meeting of the National Municipal League.

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Charges of Government Waste Overdone Writers in popular magazines and speakers before business men's clubs have been gaining easy applause by eloquent attacks upon the "unconscionable wastefulness of local government." Quite ready to concede that Coolidge economy is benignly at work in the federal government, they are summoning business men to a revolt against state and local tax burdens, declaring in the words of Roger Babson "what we save at the spigot we waste at the bung." Seldom do they refer to the purposes to which state and local moneys are devoted. Frequently they omit the simple decency to mention the shrunken dollar, in the light of which 50 per cent of the post war increases melt away. Government, as distinct from candidates for office, has few friends and public speakers and writers like to play upon the tax nerves of big business.

It is therefore refreshing to find a writer in *The Magazine of Business* with the courage to ask what did we buy with the money spent by the states and localities. Was it worth the cost? Could we have gone without it and have lived more cheaply? In some respects the author's answer wavers. He complains that the clerk, the barber and the truckman have not yet learned that a hydrant and a highway, a street light and a post office are reflected in the grocery bill. But the expenditure for roads he feels has been justified, even although it has involved huge borrowings. How else could the automobile industry have reached its present proportions? Taxes for roads are approved, therefore, as a subsidy to business. Isn't it possible that those taxes which result merely in more health and happiness are indirect, but nevertheless real, subsidies to business? Perhaps local government has not been on a spending spree after all.

In an effort to throw some light on the question, the REVIEW has been running a series of articles on "Are We Spending Too Much for Government?" Each one has been prepared by a writer of unquestioned scientific competency. The verdict is more friendly to government than we are accustomed to hear. If you have not done so already, read the articles and give government a rehearing. You may have been doing her wrong.

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New Jersey Voters Approve Zoning—Reject Term-Extender In a special election in September the voters of New Jersey passed upon five constitutional amendments, accepting Amendment No. 1 which legalized zoning, but rejecting all others. Both parties endorsed the zoning amendment, but the Democrats bitterly opposed the other four because one of them sought to extend the term of governor from three to four years, bringing his election in presidential years. The same amendment also increased the term of senators from two to four years, and of assemblymen from one to two years, but provided for biennial meetings of the legislature instead of the present annual sessions.

While there was considerable support for the longer terms for the legislators coupled with biennial sessions on the ground that the open season for legislation would be reduced by one-half, the real fight turned about the term-extender. Today the New Jersey Republicans have little difficulty in electing a legislature, but they have been less successful with their candidates for governor. Throwing the gubernatorial

election into the presidential year, therefore, seemed good party tactics, because in such years the organization can utilize those apathetic Republican voters who turn out for nothing less than a presidential contest. Torn by factional disputes, the Republicans do not at the moment present the same united front as the Democrats marshalled by influential bosses.

Crying that the term-extender was a cheap political trick, the Democrats counseled their followers to vote Yes on the first amendment (zoning) and No on all others. Thus three amendments which possessed considerable merit failed without serious consideration by the voters. The defeat of the four amendments is traced directly to the negative vote in Hudson county, Mayor Hague's bailiwick, which returned a sufficient number of Noes to overcome the small majority of Yeses in the rest of the state. Hague is the strongest single boss in New Jersey, having attained his position in the short space of eight years in politics, and will doubtless continue his success in placing Democratic governors in office now that the bogy of the presidential year is out of the way.

The text of the zoning amendment adopted is as follows:

> The legislature may enact general laws under which municipalities other than counties may adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures according to their construction, and the nature and extent of their use, and the exercise of such authority shall be deemed to be within the police power of the state. Such laws shall be subject to repeal or alteration by the legislature.

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Two New York Transit Reports

The long suffering people of New York City have recently been confronted by two plans for transit relief representing antipodean viewpoints respecting the five-cent fare, so dear to the hearts of city officials since Mayor Hylan revealed its political possibilities. The first report was prepared by Samuel Untermyer for the transit commission, the other by C. E. Smith of St. Louis for City Controller Charles W. Berry. The first is a polemic for the continuance of the five-cent fare; the second is just as surely opposed to it and announces the just fare of the future to be four tickets for a quarter. Mayor Walker has announced that he believes in the nickel fare and is against the Smith report. The controller has indicated that he has confidence in the Smith report and will support the higher fare.

But the choice between the two reports involves more than a difference in fares; it raises fundamental questions of fact and municipal policy. As to the facts, there is the question whether the surface and the elevated lines are largely obsolete, with little or no value for future transportation requirements. As to policy, there is the question what the city could afford to pay even for obsolete or partially obsolete properties to effect a complete unification and to eliminate all possible obstruction in planning for the future. There is also the question whether this system should be owned and operated by the city, or by a department or corporation controlled by the city, or by a private corporation under an agreement with the city.

The Untermyer plan is predicated upon the assumption that there is a large degree of obsolescence on the part of the surface and elevated lines, and that these properties could not be acquired through negotiation and incorporated in a plan of unification without including valuations exorbitant from the public standpoint. Consequently he recommends that the city proceed with the "recapture" of its

own subways leased to private companies, and then operate the recaptured lines in connection with the new subways now under construction. He would thus establish a city-system which would include most of the subways and would be expanded through construction or purchase as conditions may warrant in the future. The basis of immediate acquisition is contractual; the valuations are definitely fixed in the rapid transit contracts, so that there would be no negotiations and no disagreement over valuations. The operation would be on a public basis, and would eliminate completely the private companies from future transit considerations.

The Smith report proposes a complete unification of all the transit properties in the city; subways, elevated, surface lines, also buses coördinated with the surface lines. He does not find any substantial obsolescence in the surface and elevated lines and sees no special difficulty in the way of agreement between the companies and the city on reasonable valuations. He would have the properties operated by a private company; at the start by the two rapid transit companies now operating the city subways.

Mr. Smith would have a flexible fare high enough to pay operating expenses, maintenance, depreciation and return on the entire valuation upon which the system might be based. He estimates that a basic seven-cent fare would be sufficient. Mr. Untermyer recommends a fixed five-cent fare which he considers adequate to cover the full cost of service including a return on the entire valuation of the initial recaptured system. It would not be sufficient, however, after the new subways come into operation; then there would be a deficiency for about ten years, which would be borne by the taxpayers.

From the public standpoint the question is to what extent are the surface and elevated lines obsolete, and can reasonable valuations be obtained through negotiation and agreement. Can complete unification be obtained without excessive cost to the public? Is partial unification more desirable because it is attainable at moderate valuations? Will operation be more efficient under private than public management? These are questions that cannot be answered off-hand. Unfortunately neither report furnishes adequate data for conclusive answers.

CIVIC EDUCATION BY RADIO

BY FRANCIS E. TAYLOR

Director, Bureau of Broadcasting, New York University

New York University conducts a successful experiment in the use of radio for civic education. :: :: :: :: :: :: ::

SEVEN years ago the first attempt was made to synchronize voice vibrations with the discharge of electric energy, from an improvised studio in a radio engineer's garage, and broadcasting had its first day in the United States. Since that time, broadcasting has leaped from an obscure novelty to a profession numbering thousands in its employ. Over seven hundred stations now pour their messages—good, bad, and mediocre—upon the overburdened air. Sixty-one of these are in New York alone; Illinois has sixty; California has fifty-two; Pennsylvania and Ohio follow closely with forty-four and thirty-four, respectively. Nevada is the only state without a broadcasting station.

What is being done with radio as a medium of education? American colleges and universities have not been slow to see its potentialities, though comparatively few have made determined efforts to adopt it as an adjunct to regular college work. England spent almost two years in investigation of broadcasting before it was generally introduced. But the educational features of radio in England are in advance of those generally provided in the United States. The conservative Sorbonne is planning radio courses for credit, while the polyglot states of the continent have for several years utilized radio as a nationalizing process, particularly in popularizing the national language. Comparatively few universities in the United States have attempted any definite radio program for civic education. As far as known, only nine have attempted to make use of radio in this way. There is a constant apprehension both on the part of universities and the radio stations of being charged with political propagandizing. A few municipalities have sought to humanize their many government departments and boards by showing the work they do and the manner in which it is done. The city of St. Louis has carried on interesting civic education of this nature. The outstanding example is WNYC, the broadcasting station maintained by the city of New York.

A HELP IN AMERICANIZATION

Radio seems to offer promise, educationally, in the Americanization of our foreign-born population. An experiment of this kind was conducted this year in New York City by the Extension Division of New York University in coöperation with the Council on Adult Education for the Foreign-born. New York is an ideal laboratory. Over 2,000,000 naturalized foreigners reside in New York City alone; 50 per cent of the total population of New York City is either foreign-born or of foreign extraction; while in the surrounding territory, in New Jersey, great concentrations of foreign-born provide a group within the potential broadcasting area of New York stations of over 4,000,000.

The Bureau of Broadcasting of New York University arranged a series of addresses by Americans of foreign

birth who have achieved distinction, as an incentive to others of their own nationality who are seeking success in their newly adopted country. The speakers dealt with the problems facing the immigrant, all based on their own experiences, and thus furnished examples of how success has been won, in many cases against most adverse circumstances, and in almost all cases from poverty or obscure birth. Representatives of six nationalities addressed the radio audience at three-week intervals from the February to May term over Station WOR. The speakers were Senator Robert F. Wagner, Walter Damrosch, Edward S. Witkowski, Antonio Stella, Michael I. Pupin and Adolph Lewisohn.

HALL OF FAME ADDRESSES

Concurrently with this series, the University presented a series of talks on native-born Americans who have achieved prominence during the past century. This series was given in connection with the Hall of Fame, an endowed institution allied with New York University, whose purpose is to perpetuate the memory of famous statesmen, educators, inventors and authors. These talks were given in the form of birthday commemorations by men who are prominent in the same field as the subject of their discourse. Six statesmen and educators whose birthdays were so commemorated throughout the spring months were Mark Hopkins, Emma Willard, John Lothrop Motley, James Madison, Henry Clay and Samuel F. B. Morse. Radio addresses were delivered by George E. MacLean, one of the few living pupils of Mark Hopkins, and former president of the University of Iowa; Eliza Kellas, principal of the Emma Willard School; Stephen P. Duggan, director of the International Institute of Education and leader in the Netherlands Society; George Gordon Battle, a Virginian, and prominent lawyer in New York City; Henry Breckinridge, a Kentuckian, and former assistant secretary of war; and Robert Underwood Johnson, former ambassador to Italy and at present director of the Hall of Fame.

It is impossible to estimate the value of the series; this may be great or small. It is an experiment pointing toward the wider use of radio as a vehicle of civic education.

INDIANAPOLIS MAYOR FACES JAIL SENTENCE

BY MAURICE EARLY
The Indianapolis Star

For the first time the teeth in the Indiana corrupt practices act bite a politician. :: :: :: :: :: :: :: :: ::

ANOTHER chapter has been written in the weird story of municipal politics in Indianapolis. John L. Duvall, the last elective mayor, is under sentence to serve thirty days in jail and pay a fine of $1,000.

The things that were revealed in his ten-day trial in the Marion county criminal court which ended with a verdict of guilty on September 22 merely confirmed the suspicions of the public. It was revealed that Duvall made a

secret deal with the Ku Klux Klan in order to get the support of the hooded order. He agreed in writing to give that order 60 per cent of his appointments and to take no orders or directions from any other group or organization, according to the testimony of Klansmen, including the minister of one of the large churches.

But Duvall was not convicted for making a deal with the Klan. That evidence was merely thrown in his trial for good measure to show intent. The specific charge against the mayor, for which he was convicted, was that he made a bargain with a political boss prior to the election of 1925 to sell out the board of public works for the sum of $14,500. After the election, so the evidence of the state showed, Duvall decided not to go through with the deal. He called in the boss and gave him back $12,000.

MAYOR'S UNPOPULARITY CONVICTS HIM

The corrupt practices act of Indiana under which Duvall was convicted is a very stringent law. Although it has been on the statute books since 1913 it is grossly violated in virtually every campaign. Duvall is the first official to have it visited on him.

One of the things that the corrupt practices act prohibits is the making of promises by a candidate. Of course, it is a matter of general acceptance that candidates do make promises during campaigns. Heretofore this has been winked at and no indictments ever have been returned against officials for using sharp practices to get office.

To understand the conviction of Duvall it is necessary to have some idea of the scope of the political unrest in Indiana due to the tidal wave of scandal following the Klan movement.

At no time was Duvall a popular candidate. In politics he is a creature of the Klan. Certainly he held no high place in the councils of the Republican party. Therefore his popularity, to the degree that he had any, rested within the Klan membership.

As soon as Duvall was elected and before he took office in January of last year it became apparent to the Klan that Duvall was not going to deliver. His appointments showed that he was giving more heed to the desires of others, particularly George V. Coffin, Republican county chairman. It must be understood that Coffin, although he played with the Klan in 1924 and gained control of the Republican organization by using the Klan, had become distasteful to the hooded order by the time the mayoralty election came around.

All of this is recited to show that Duvall, having virtually no political or personal following, alienated the one group which made his election possible. Before he took office he made public the personnel of important boards and then changed them. The public soon discovered that Duvall either did not know what he was about or that he had many masters and was forced to listen to the last that got to him. In addition to this Duvall placed a number of his relatives in key positions in the city hall.

It is safe to say that Duvall throughout the twenty-one months of his administration has done nothing to win any popular acclaim. Therefore the greatest crime that Duvall has committed, from a political point of view, is the high crime of being unpopular.

FOUR CITY OFFICIALS UNDER ARREST

There are countless examples of scamps and demagogues in public office who are able to "get by" with the public and grand juries because of their ability to win popularity. When it comes to winning any degree of popu-

larity Duvall is a big, round zero. In this respect the majority faction of the city council is in the same boat with Duvall. The majority of the members of the city council are likewise creatures of the Klan.

The references made to the Klan might leave the inference that the Duvall administration has been objectionable because of an intolerant attitude towards religious and racial groups. That is not the case. At least that charge is not being made against the Duvall administration. Except for the passage of a segregation ordinance, prohibiting negroes from living in sections populated by whites, there has been little to indicate that the administration was concerned about religious or racial matters.

Incompetency, instability and graft are the charges made against the Duvall administration in the popular mind. Four city officials are under arrest as this is being written and a grand jury is searching further into the things that are going on at the city hall.

These things may explain why a movement of citizens was started last spring which culminated in the adoption of the commission-manager form of government in Indianapolis at a special election June 21 by a vote of more than five to one. Under the law of Indiana this new form of government will not become operative until January, 1930.

MAYOR FELL IN BARRAGE AGAINST K. K. K.

In all probability Duvall would not be under the shadow of a criminal conviction now if it were not for the general barrage being laid down against "super-government" in Indiana. The spark was tossed on the powder can one year ago by Thomas Adams, Republican editor of a newspaper at Vincennes, Indiana. Adams made charges against state officials, members of congress and city officials, based on communications he obtained from D. C. Stephenson, former grand dragon of the Klan, now a prisoner in the state prison for the murder of an Indianapolis girl. Stephenson had risen to a position of power in the Republican party by reason of his activities in the Klan. He was at the height of his power when he was dethroned by the murder indictment. He had spent large sums of money which he had made out of the Klan in assisting Ed Jackson to become governor of Indiana. Before his fall Stephenson was credited with saying, "I am the law in Indiana."

Little by little bits of information came from Stephenson and his former allies. This publicity set fire to the public imagination and the work of converting political scandal into indictments was started by the Marion county grand jury. The third grand jury is now at work. The trail of the grand juries' investigations went in many directions, one of them being to the affairs of Mayor Duvall.

Stephenson was arrested before the primary campaign in which Duvall was nominated. Therefore Stephenson and his faction of the Klan do not figure in the present troubles of the Indianapolis mayor. Duvall is charged with dealing with the so-called regular Klan which continued to hold allegiance to Hiram Wesley Evans after Stephenson had been deposed as grand dragon.

FATAL DEAL WITH ARMITAGE

As stated before, the Klan activities are merely a background in the Duvall case. His conviction resulted from the testimony of William H. Armitage, for many years a gambling house operator, and a political boss. Armitage was the power behind the throne in the administration of the late Lew Shank, which preceded the Duvall administration.

Shank during his administration as mayor had taken an anti-Klan position and therefore he and his associates were black-balled by the Klan.

Armitage opposed Duvall in the primary, but during the campaign sought to make deals whereby he could retain his hold on the board of public works which lets the contracts for public improvements. Secretly Armitage went to Duvall and gave him $14,500, according to the testimony. At the same time Duvall was to denounce Armitage in public, but was to receive his support in the negro wards.

As soon as the votes were counted on election night Duvall, in company with his brother-in-law, William C. Buser, departed from Indianapolis and hid in a town in Illinois. From his place of seclusion Duvall began to announce the names of persons he would appoint to important positions in his administration. Political leaders of the different factions soon learned where Duvall was hiding and got to him. This resulted in his shifting appointments. Klan leaders got to him, Coffin found him and finally Armitage made a trip to Illinois. When he found Duvall the mayor elect told him, Armitage said, he could not go through with the deal. Later Duvall had Buser carry $12,000 to Armitage.

Duvall admitted on the witness stand that he accepted $12,000 from Armitage during the campaign, but merely did so in order to keep Bill in line. The mayor said he always intended to give the money back to Armitage after the election. He said he merely took the money to prevent Armitage making a deal with the Democratic candidate. But the jury of twelve men did not hesitate long in bringing in the verdict of guilty.

WHO SUCCEEDS IF MAYOR GOES TO JAIL?

Under the charter of Indianapolis the city controller succeeds to the office of mayor in the event of the death, resignation or removal of the mayor. Duvall had named his brother-in-law, Buser, to the office of controller. Just before the trial Buser was deposed and Claude Johnson, then chief of police, was made controller. Immediately after the conviction of Duvall another change was made in the controllership. Johnson was put back on the police force and Mrs. Duvall, wife of the mayor, was made controller.

As this is being written it appears that Mrs. Duvall will be the mayor in case the supreme court refuses to reverse the decision of the criminal court or in the event of Duvall's forced resignation. The action of the mayor in paving the way for the retention of the office by means of his wife has caused additional bitter criticism.

BIG BILL'S BUNKUM BALLS UP CHICAGO'S SCHOOLS

BY SPECIAL OBSERVER

The story of the prostitution of a city's public school system for shameless political ends. :: :: :: :: :: ::

EVER since the start of the political party campaigns in connection with Chicago's last mayoralty contest—the primary on February 22 and the mayoralty election on April 26 of this year—the Chicago public schools and its chief administrative officer have been before the country as a political issue. Many Chicagoans, as well as outsiders, have long pondered what "Big Bill" Thompson had in his mind when he turned his barrage of political bunkum on the schools. In most communities the school system is a subject "filled with dynamite," and one which politicians gingerly side-step. But in Chicago the politicians have considered the schools a legitimate part of their spoils domain.

Interested observers are asking these questions:

Why was the superintendent of schools, William McAndrew, a man nationally recognized as an eminent educator and with a distinguished record of more than forty years in the public schools as teacher and administrator, made a political issue?

Why was King George made a party to a campaign of purely local issues?

How could McAndrew conceivably be considered His Majesty's "stool pigeon"?

These and related questions can best be answered by an analysis of the local situation. Chicago's schools have an aggregate enrollment in excess of 450,000 pupils. The total expenditures in 1926 were $66,317,992. Of this amount $40,466,154, or 61 per cent, was spent for educational administration, including teachers' salaries, salaries of civil service employees, fuel and light, interest, and supplies. Twenty-three million, nine hundred fifty-two thousand, four hundred and four dollars, or 36.1 per cent, was spent through the building fund, which included $21,409,949 for capital outlay on new buildings. The system contains more than 350 school units and employs about 12,000 teachers.

The system is controlled by a board of education of eleven members, each of whom is appointed by the mayor for a term of five years, subject to confirmation by the city council. The terms are staggered so that an incoming administration may find on taking office that a majority of the members were appointed by one or more of his predecessors. Such was the case when Thompson took office. His administration did not obtain full control of the board until the terms of three members had expired, one Dever appointee had resigned and the support of two members had been obtained through political negotiation. The board of education annually elects its own executive officers.

HOW MCANDREW CAME TO CHICAGO

In straightening out the tangle in the local situation it will perhaps clarify the subject to explain how Mr. McAndrew came to be appointed. When his

predecessor, Peter A. Mortenson, announced his intention to resign, a number of men in the system aspired to be superintendent. As time went on the canvass narrowed to two men, each of whom had a host of friends both inside and outside the system. The pressure became so great and the agitation so persistent that the board of education came to the conclusion that to appoint either of the men would work havoc with the school system. It therefore reluctantly reached the conclusion that in the interests of the system the advisable course would be to obtain for superintendent a man free from all local and personal alliances and entanglements.

A committee of the board thereupon proceeded systematically to comb the country for a superintendent who would not only meet these requirements but would also qualify as an educator and administrator. Presidents of a score of teachers' colleges throughout the country were asked to submit in confidence the names of such persons. Twelve such responses were obtained and the name of McAndrew, who was then an associate superintendent of the New York City public schools, was on eleven of the twelve lists. Several of the leading possibilities were invited to address the board of education. One of these was Mr. McAndrew, who appeared before the board in December, 1923, and analyzed frankly and fearlessly what appeared to be wrong with Chicago's schools. Extended inquiry among McAndrew's professional associates in the New York schools concerning McAndrew the man and McAndrew the educator confirmed the opinion that he was the man for the position.

Mr. McAndrew was approached. At first he absolutely declined to consider the proposition. He did communicate with several of his friends living in the city in whose judgment he had confidence. Without exception they advised him to this effect: that Chicago's schools undeniably needed a strong administrator but that whoever undertook the task would be subjected to endless "grief." They urged him for his personal happiness and peace of mind not to accept.

Mr. McAndrew informed Mrs. McAndrew of this advice and his inclination to be guided by it.

"That settles it," she said. "We're going!"

OTIS LAW GIVES SUPERINTENDENT BROAD POWERS

The Chicago school system operates under the so-called Otis Law. This law provides that:

> The superintendent of schools shall prescribe and control, subject to the approval of the board, the courses of study, textbooks, educational apparatus and equipment, discipline in and conduct of the schools . . . , appointment, promotion and transfers of teachers, principals, assistant and district superintendents, and all other employees in the teaching force, shall be made, sites shall be selected, schoolhouses located thereon and plans for the same approved, and textbooks and educational apparatus and equipment shall be adopted and purchased by the board of education, *only upon the recommendation of the superintendent of schools*, unless it be by a two-thirds vote of all members of the board.

The law intends that the superintendent shall be the educational expert and administrator of the school system and that all matters involving educational policy and control of the teaching staff shall originate with the superintendent.

Mr. McAndrew immediately accepted the duties of the position at their face value. He undertook to work out in a systematic way plans which would place public education in Chicago on a par with the larger cities of the country.

What did he find when he took office? Several members of the board of education, appointed by Mayor Thompson during his previous administration, had recently been indicted for alleged graft and corruption in connection with school contracts. The appointees of Mayor Dever had been in office less than a year and were valiantly making headway in freeing the school system from the taint of political corruption.

McAndrew's predecessor had operated on the "unit" system, under which each school is a self-contained organization. In this way each school principal is largely responsible for the educational methods, standards and discipline of his school.

A considerable number of teachers in the elementary schools maintained an aggressive organization. This group through its business agent, Miss Margaret Haley, has for many years taken an active part in all school matters which affected the teaching force in any way.

MCANDREW BEGINS HUGE TASK

In brief McAndrew found a system in which political preferment went far in securing personal advantage and a woeful lack of administrative organization. He faced a teaching body which knew not discipline and for years was accustomed to exercise a considerable influence on both school policy and administration.

McAndrew grasped the situation firmly with both hands. His first step was to organize the educational department into five divisions, each with an associate superintendent in charge. Lines of responsibility were worked out. Teachers were made accountable to principals, principals to district superintendents and district superintendents to their respective associate superintendents. The associate superintendents, together with the superintendent, constituted the board of superintendents. This body was, in effect, the superintendent's cabinet and McAndrew submitted to it all matters affecting the educational department. In this way matters might be taken up with the superintendent only through the established channels. Teachers or principals with personal grievances could not thus go over the heads of their immediate superiors as had been the custom in previous years.

The practice was introduced of making appointments, promotions, selection of sites, adoption of textbooks, etc., stand on their own merit. Promotions in the system to department heads or principals were made on the basis of comprehensive competitive examinations. In certain appointments candidates from the entire country were invited to compete in the selective examinations.

Objective tests were introduced as a means of gauging efficiency of instruction. In other school systems standardized proficiency tests have long since been accepted as routine methods of measurement. Owing to local opposition the use of such tests was delayed in the Chicago schools. It was argued that they tended to "factoryize" the system, victimize the pupil and to limit too closely the professional initiative of the teacher.

The results of the city-wide application of such tests at the beginning of McAndrew's term gave results which were appalling to an educational expert. This naturally led to an insistence on increased attention to the three fundamentals: reading, writing, and arithmetic. That this campaign for increased accuracy brought results was shown by tests two years later.

Lack of an adequate staff made it impossible to provide a complete or an extensive explanation of the new methods to the teaching staff. The

result was that tests, which to many teachers were unfamiliar, were not easily understood either as to design or purpose. The emphasis on results in the three fundamentals apparently produced a panic on the part of individual teachers and a tendency to continuous drill on the prescribed subjects rather than merely giving the subjects their normal place in the daily school program.

The superintendent accepted the report of an educational commission, named by the board prior to his appointment, regarding the desirability of installing junior high schools and the so-called platoon plan of operating schools. These types of schools have been adopted in other cities as highly desirable improvements in the educational scheme. In Chicago, however, a controversy, stirred up in large part by the teachers' federation, was marked by charges of "factoryizing" the schools and a systematic campaign of opposition to the adoption of either plan.

Many people consider McAndrew's chief contribution to the Chicago school situation his insistence on basing both original appointments and promotions on a merit basis. He reduced the element of political influence in appointments to a minimum. Within a year's time the number of attempts to use such influence dropped from 520 during one year to five instances for the ensuing twelve months' period.

HOW POLITICIANS REACTED

The following story will illustrate the reaction of the city hall politicians to McAndrew and his methods.

McAndrew maintained the open door policy and announced a standing invitation to any citizen to come to his office at any time for a discussion of matters relating to the schools. During a session of the board of superintendents a ward leader was announced as requesting a personal conference with the superintendent. McAndrew ordered the politician ushered into the room in which the board was in session.

"I want to speak to you in private," said the ward worker.

"Any business which you have with me concerning the schools is appropriate business for the board of superintendents," responded the superintendent.

"I want to see you about appointing Miss Blank a teacher," said the ward worker, taken aback by the new style of procedure.

"How's her apperception?" demanded the superintendent.

"Her what?" exclaimed the astonished ward worker.

"How is she on question distribution?" persisted McAndrew.

"I never saw her teach."

"What," demanded the superintendent in a voice raised above ordinary pitch in mock indignation, "do you mean to say that you come here recommending Miss Blank without having seen her teach? Sir, you insult me!"

Whereupon the ward worker hastily withdrew, considerably discomfited by the new emphasis in school appointments. He returned to the City Hall and reported to the boys:

"They've got a crazy man down there as superintendent of schools."

MCANDREW AS A POLITICAL ISSUE—ABSURD CHARGES

McAndrew was one of the chief points in Big Bill's campaign speeches. His denunciation of McAndrew and McAndrew's malign influence on the schools always brought Big Bill's audiences to a high point of enthusiasm.

Summarized briefly, Thompson's charges were these:

That McAndrew was an outsider; that anyone of a score of Chicagoans

could run the schools far better than McAndrew.

That McAndrew was responsible for the removal from history textbooks of photographs of various heroes of foreign birth who had made important contributions to American history. Big Bill's list included Kosciuszko, Pulaski, von Steuben and even Christopher Columbus, the well-known Italian hero.

Big Bill would dramatically hold up a book with a page open to the picture of Washington.

"This is the book which the schools used when I was mayor," he would say. Then he would dramatically hold up another text showing several blank pages.

"Since McAndrew came they have dropped out Washington and many others of our national heroes."

That McAndrew was the stool pigeon of the King of England for alleged pro-British propaganda.

Thompson's ringing denunciation of McAndrew and all his works always culminated in the vigorous assertion that as soon as Bill Thompson became mayor, McAndrew would be fired and would be sent back to New York City, where he belonged.

It is interesting to examine Thompson's charges in the light of easily ascertained facts.

Thirty-five years ago McAndrew was connected with the Hyde Park High School, first as teacher and later as principal. Hyde Park was then a village but is now in the very heart of Chicago's south side.

The history textbooks about which Big Bill complained, official records of the board of education show, were adopted by Thompson's own appointees several years prior to McAndrew's appointment.

The stool pigeon charge appears to be traceable to two circumstances. McAndrew wears a carefully cultured beard and bears a faint resemblance to His Majesty, George the Fifth. One of the British journals sagely remarked that it is not clear whether Big Bill is worrying over King George V or King George III. The second basis of this allegation is traced to a deliberate misreading of an editorial dealing with the painting "The Spirit of 1776," written by McAndrew as editor of the *Educational Review*. An enterprising reporter of a Chicago morning paper exhumed the editorial months after it had appeared in print and by a careful arrangement of quotations made it appear that McAndrew was a pacifist and advocated the removal from every American school room of the well-known historical painting. The reporter subsequently admitted that he wrote the story to "scoop" the rival morning sheet and that his industry had earned him a raise in pay.

An analysis of the state of the public mind is necessary to understand why Big Bill's charges, so absurd in the light of the facts, evoked a response in the campaign.

Chicago men for Chicago jobs, especially public jobs, is a strong local tradition. Undeniably McAndrew had been brought from New York to bring order out of chaos in the Chicago school system. McAndrew made no secret of his previous association with the New York system.

Chicago has a number of population groups which in voting strength and in political activity constitute important factors in municipal elections. The King George angle was calculated to overcome whatever political advantage Dever enjoyed with the Irish-American element by virtue of his own nationality and that of Boss Brennan and Martin J. O'Brien, his political sponsors. The Polish, German, Italian and even

Swedish groups appeared to be amenable to Big Bill's specious talk concerning the history textbooks.

TEACHERS' FEDERATION OPPOSES MCANDREW

To a considerable proportion of the voting public McAndrew was a symbol. In the early part of McAndrew's administration the public press had pictured him as one who had set the pace for the board of education, as one who stood for new-fangled methods of education and the one who had taken away from the teaching body the right which had been enjoyed for a number of years of meeting on school time ostensibly to discuss school affairs. McAndrew is Scotch. He is nobody's "yes man."

Soon after he took office the question arose as to the policy of closing the schools eight afternoons a year for meetings of teachers' councils. McAndrew held that it was unnecessary to close the schools; that this practice was unique to the Chicago system; and that the dismissal caused unnecessary waste of public money and pupils' time. A practice of several years' standing was therefore discontinued.

The teachers' federation made much of McAndrew's stand on this question and agitated unsuccessfully for a restoration of council meetings on school time.

McAndrew stood for eliminating outside activities, not directly concerned with school work, as distracting influences to a smooth educational program. Among the activities in which he refused to let the schools participate were: Boys' week, Girls' week, Monticello purchase, Old Ironsides collection, survey of twins, Johnny Appleseed day, Bible truck service, Eucharistic Congress, Leather week, Bloodless day, Style show, etc. His stand undoubtedly cost him much in personal popularity.

The blame for a number of matters, such as the installation of time clocks in the schools and the policy of junior high schools, the platoon school plan, etc., fell upon his shoulders. As superintendent, McAndrew promulgated the order requiring teachers and principals to register the times of their arrivals and departures which the board of education had adopted on the recommendation of a firm of efficiency engineers.

Every instance of opposition to the junior high schools and platoon schools can be traced to the organized activity of the teachers' federation.

McAndrew has a keen sense of humor and allows no opportunity to pass which can be turned into a humorous reference. Many persons who have had only a limited contact with him say that he is blunt and tactless. His friends explain his attitude by saying that he is keenly sensitive and that his apparent bluntness is a defense reaction against personal criticism. Whatever the explanation, one incident will shed light on an attitude which is widespread in the school system.

One of Chicago's high schools has a traditional salute for its distinguished visitors. As the guest enters the assembly hall, the student body arises en masse and stands at attention until the visitor is seated. The school takes pride in this custom.

It is reported that when McAndrew first visited the school, the student body arose according to custom. "Oh, be seated," he is reported to have said. "I am not the Star Spangled Banner!"

OBSTACLES TO FIRING MCANDREW

Big Bill's campaign pledge to fire McAndrew encountered several practical obstacles. He first had to obtain a working majority on the board. A Thompson henchman, J. Lewis Coath, was elected president. Coath organ-

ized the board by appointing to the important committees the Thompson appointees and such Dever appointees as agreed to go along with the new administration. The Dever appointees who refused to do Coath's bidding were appointed to a single committee, that relating to public health and sanitation. Both subjects are important, but do not involve the instruments which give spoils politics its primary impulse.

Another obstacle was the fact that McAndrew had been employed for a full statutory term of four years. His contract does not terminate until January 9, 1928. He may be separated from the service only by resignation or removal for cause. In the latter case, charges are heard by the entire board after thirty days' notice. A majority vote is required to suspend the person pending the hearing and to remove the accused if he is found guilty.

Periodically Coath announced in the public press that at the opportune moment McAndrew would be "out" and that "it will all be over in five minutes."

The superintendent's appearance as witness in an injunction suit brought by three hundred teacher-clerks against the board was promptly seized upon as an insubordinate act. This group of employees had served as assistants to school principals and had the status of teachers. Their duties were in part clerical. Acting on the advice of its attorney interpreting a recent court decision, the board of education adopted a rule requiring that such positions be filled from the civil service lists.

McAndrew testified that, in his opinion as an educator, the positions should be filled by persons with training and experience as teachers. This testimony was exactly counter to the action of the board taken on advice of its attorney.

Charges of insubordination were preferred against McAndrew on August 29. The roll call on the charges showed a five to five tie until Coath executed a clumsy *coup de grace*, thus suspending McAndrew by a six to five vote.

The law provides that charges shall be heard by the board after thirty days' notice. The case thus came up for hearing September 29. Sixteen new charges against McAndrew were added to the trial indictment as the hearing opened. Five counts are based on the pro-British allegation. The other eleven set forth specific acts or attitudes to which the Thompson members take exception.

McAndrew has retained as personal counsel Angus Roy Shannon, the attorney who drafted the Otis law, and Francis X. Busch, city corporation counsel in the Dever administration. The McAndrew forces called for a speedy trial. Coath, the major domo of the proceedings, sat austerely on the rostrum and explained, between puffs on a cigaret, that since the trustees serve without compensation they could not spare all their time from their business pursuits.

It appears that Coath intends to fulfill his liege lord's pledge by pursuing Fabian tactics. The first three hearings were held at weekly intervals. At these sessions the prosecution barely scratched the surface of its case. Observers point out that by thus prolonging the trial, McAndrew will be kept in official suspended animation until his term of employment automatically lapses.

An added difficulty is that the board has no local precedents to follow since McAndrew is the first superintendent to be suspended and tried according to provisions of the school law.

Each hearing has attracted a packed gallery to the stuffy board rooms. One

exchange between counsel provoked a titter from the audience.

"This is no vaudeville show," sternly admonished President Coath. "This is a serious matter."

Big Bill has never regarded the McAndrew issue as anything but a political matter. He is reported to have made the following declaration when an associate endeavored to point out that "firing McAndrew" might prove to be a political boomerang:

"McAndrew may be the best superintendent of schools Chicago has ever had, but he was a political issue in my campaign and he's got to go."

THE "SQUEAL BOOK"

BY LENT D. UPSON

Director, Detroit Bureau of Governmental Research, Inc.

The facts—if any record exists at all—about the number and character of crimes lie buried in the "squeal books" of the police departments. Which means that we are endeavoring to diagnose and cure social diseases without knowing how extensive they are or how effective are our current remedies. :: :: :: :: :: :: :: ::

DURING recent years the control of crime has received unusual consideration from the American public. The press, reflecting current opinion, has urged vigorously the amendment of prevailing conditions. Citizen organizations,—national, state, and local,—have been created to consider the problems involved and feasible methods of solving them. The American Institute of Criminal Law and Criminology and the American Bar Association have been active through studies by special committees. More recently there has been organized the National Crime Commission, with associated commissions in some states and cities, and only the other week the American Crime Study Commission was launched by distinguished jurists and citizens.

As was pointed out by William P. Rutledge, commissioner of police for Detroit, speaking before the recent convention of the International Association of Chiefs of Police, numerous and diverse recommendations have been advanced to combat crime,—the pre-school training of children, ethical instruction in the elementary schools, more intensive religious training, improvement in police methods, revision of the legal procedure for the trying of alleged offenders, the modification of correctional methods, and particularly the application of more severe penalties to criminals. On this last subject the determinists and the legalists have spilled gallons of ink in argument as to whether punishment should be designed to correct the offender or as an object lesson to others.

NO USABLE KNOWLEDGE OF NUMBER AND CHARACTER OF CRIMES

In the midst of these activities, neither the public nor the authorities responsible for curbing offenses have any usable knowledge of the number and character of crimes committed or of the cost of these depredations. The facts—when records exist at all—

lie buried in the "squeal books," the records of complaints or of "offenses known to the police" in the villages, cities, towns and counties of the several states. Which means that we are in the absurd position of endeavoring to diagnose and cure a social disease, or, better, several different social diseases, because crimes are of differing types and spring from different motives, without knowing how extensive those ailments are, where they exist, and the effect of current remedies.

The total number and type of offenses against law and order can never be known precisely because they are not all reported to the police. Usable totals and details will be known only when all governmental units report complaints of offenses to some central state authority, such as the State Bureau of Criminal Identification and Records proposed recently for New York. Even then, it will be necessary to agree upon some uniformity of definitions and procedure of recording before these data can be used comparatively. And it will be years before the concerted efforts of interested groups will result in such uniformity and completeness of reporting, if the experience of the health authorities in expanding the state registration areas for communicable diseases is any criterion.

In the meantime, it is possible for the police to make available to the public the amount and nature of crime committed in larger cities,—say those of over 30,000 population,—where probably most crime takes place. The International Association of Chiefs of Police has occasionally resolved that such information should be secured, but slight progress has been made. However, with a view to stimulating further activity in this direction, Commissioner Rutledge recently sent questionnaires to some 300 cities, defining certain major offenses, and requesting data as to their incidence for the year 1926. Returns from 100 cities were reported to the Windsor Convention. They are presented in graphic form, as accurately as possible, on the accompanying chart. It is almost useless to say how unsatisfactory the material was for comparative purposes, thereby emphasizing the necessity for uniformity and completeness in reporting.

UNIFORMITY IN REPORTING NEEDED

For example, the most important crime that can be committed in civil life is that of murder. Because the common law definition of this crime has been so frequently changed by statute law, the questionnaire asked for the total of homicides, exclusive of justifiable killings and killing by means of an automobile. The rate ranged from over 25 to zero per 100,000 population, a variation so large as to compel doubt either of the definition or the records. The questionnaire asked for the number of robberies on highways, *i.e.*, "hold-ups," and those in buildings except as burglary, *i.e.*, bank and store robberies. In some instances the returns are made as one, and in others there is an indication of confusion with breaking and entering. The returns on burglary, separately for residences and business places, are, of course, confused by the large differences in the statutory definitions of these crimes.

The greatest lack of uniformity exists in the returns for grand larceny. This was defined as theft from a store, dwelling, bank, office, warehouse, etc., in an amount over $25, not by violence (which would be a hold-up) and not by burglary. Larceny from the person in the nature of pocket-picking was enumerated separately. From the returns it is very evident that what is

considered grand larceny in one jurisdiction is not so considered in another.

The publication of the detailed data by individual cities would require so many explanatory footnotes, and would even then be so unfair, that it cannot be considered. A condensation of the data showing the prevailing rates for offenses regardless of discrepancies in definitions may be of interest as shown on the chart on the following page.

A PROGRAM

As a result of presenting this situation to the chiefs of police, by Commissioner Rutledge, the Association authorized the appointment of a committee to undertake a program of uniform reporting. As chairman, Commissioner Rutledge has outlined work comprehending the following steps:

1. Preparation and acceptance by the Association of uniform definitions of major offenses so far as consonant with differing laws. Since arbitrary definitions of offenses cannot be made, owing to the variation in statutory definitions, it is proposed to arrange a classification and segregation of offenses, so as to arrive at substantially uniform results. For example, one state may define burglary as breaking and entering either in the day time or night time. Another state may define the offense as breaking and entering only in the night time. With a proper segregation of offenses, the comparative data can be made uniform in spite of legal differences.

2. The development and general acceptance of a uniform procedure for handling complaints so that each department will record the same defined offenses in the same manner. For example, in recording several thefts committed in a multiple dwelling one department may now treat each particular offense as a separate burglary, while others would record the several offenses as a single burglary.

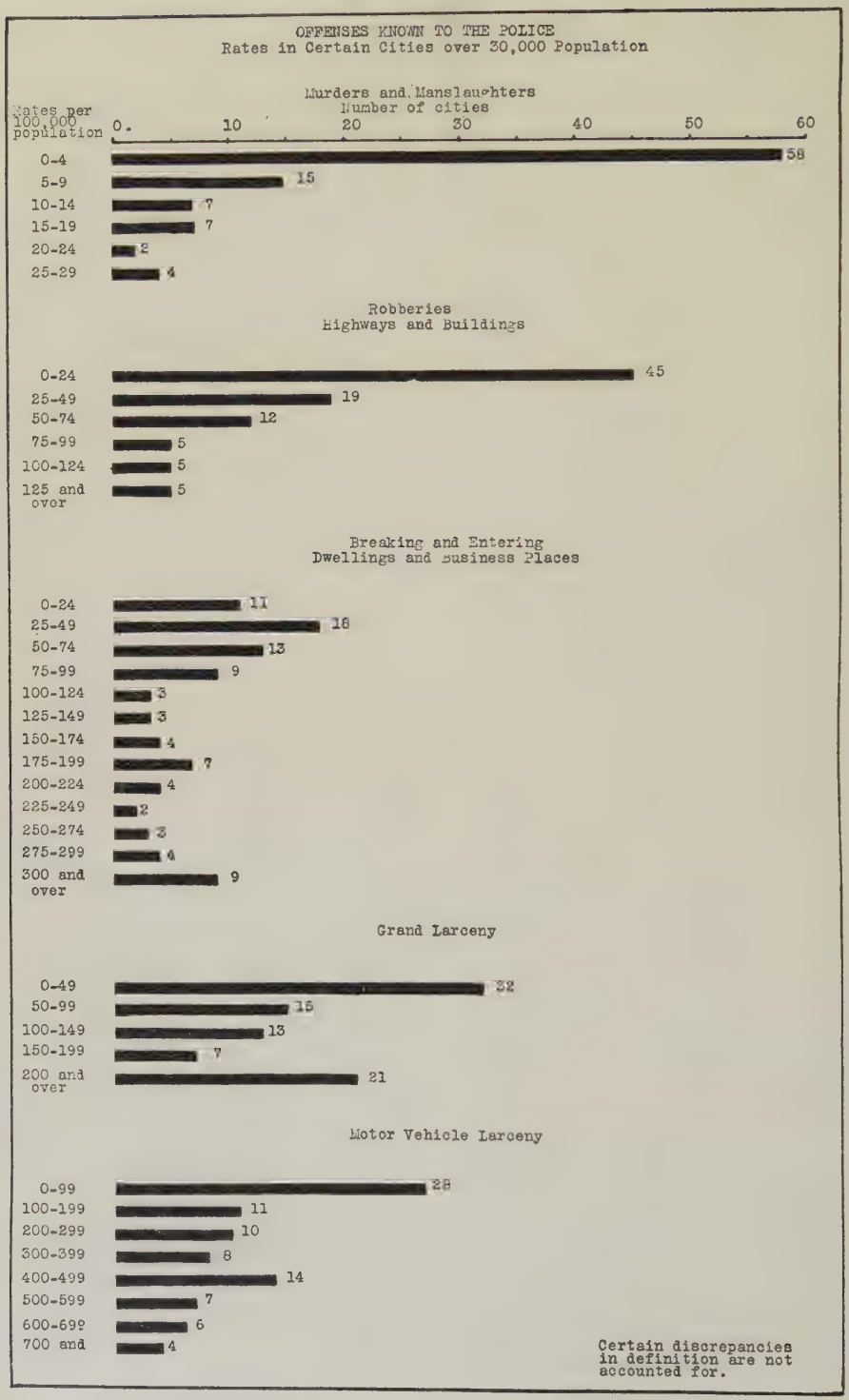
3. Encouragement to police departments to maintain records in accordance with the agreed definitions and classifications so that comparative periodic reports may be prepared.

4. The eventual development of a clearing house for crime data, possibly in connection with the bureau of criminal identification now connected with the department of justice at Washington. It is assumed that it will be necessary for only the more important cities of the country to utilize this clearing house, say, beginning with cities over 30,000, although this population limit can be constantly lowered. This is not meant to prevent any city reporting now that wishes to.

5. Determination for each year of the reportable estimated population of cities for use as a basis for showing the number of offenses per 100,000. At the present time the population statistics used by the police authorities vary considerably from those reported by the United States census bureau for interim periods.

6. Eventually, the development of state bureaus of criminal identification and records. A number of states already have bureaus of criminal identification and these might be expanded to include record keeping for minor divisions of the state. In this way each state would be in a position to make available a total of all offenses committed within its jurisdiction. For the clearing house at Washington to assume this responsibility would not only be too involved, but probably would be beyond its authority.

In concluding his remarks to the convention, Mr. Rutledge said: "Because I believe that the progressive steps looking to a uniform definition of major crimes, and the collection of statistics on these crimes for dis-


OFFENSES KNOWN TO THE POLICE
Rates in Certain Cities over 30,000 Population
Murders and Manslaughters
Number of cities
Rates per 100,000 population
0
10
20
30
40
50
60
0-4
58
5-9
15
10-14
7
15-19
7
20-24
2
25-29
4
Robberies
Highways and Buildings
0-24
45
25-49
19
50-74
12
75-99
5
100-124
5
125 and over
5
Breaking and Entering
Dwellings and Business Places
0-24
11
25-49
18
50-74
13
75-99
9
100-124
3
125-149
3
150-174
4
175-199
7
200-224
4
225-249
2
250-274
3
275-299
4
300 and over
9
Grand Larceny
0-49
32
50-99
15
100-149
13
150-199
7
200 and over
21
Motor Vehicle Larceny
0-99
28
100-199
11
200-299
10
300-399
8
400-499
14
500-599
7
600-699
6
700 and
4
Certain discrepancies in definition are not accounted for.

semination to the public should originate and be carried forward by police officers, I renew the suggestion that a competent and energetic committee be appointed for these purposes." The committee was authorized and consists of: Commissioner William P. Rutledge, Detroit, Chairman; Chief Joseph A. Gerk, St. Louis; Chief Jacob Graul, Cleveland; Chief James Higgins, Buffalo; Chief L. V. Jenkins, Portland, Oregon; Chief Thomas Healy, New Orleans; Superintendent Michael Hughes, Chicago; and Chief August Vollmer, Berkeley, Calif. Several other appointments are yet to be made.

REPRESENTATION FOR MINORITY GROUPS

BY SAMUEL A. CARLSON
Mayor, Jamestown, N. Y.

Any group numbering 10 per cent of the voters should have a representative in our city councils, says Jamestown's veteran mayor. :: ::

We hear much criticism about the character of men elected to our governing bodies. But critics seem to be entirely unmindful that the men against whom criticism is directed are those whom the majority of voters in each district or community have chosen. Most of us seem to be imbued with the idea that there is a sort of religious sanctity in majorities. The truth is that righteousness is about evenly divided between majorities and minorities.

In order to make our legislative bodies truly representative, both majority and minority groups should be given representation. The adoption of such a plan would not preclude control by the predominating community sentiment. Everyone knows that a few independent and forcible men in any legislative or governing body are always able to wield a helpful and guiding influence for good government. Such men could be elected by the simple method of giving representation to all voting groups having a voting strength of say 10 per cent or more of the total vote in the community. Each voter might be privileged to vote for two or three candidates with provision that all candidates receiving more than 10 per cent of the vote should be declared elected and given seats in the governing body. Of course under this plan the governing body would be composed of a variable number, depending upon the number of voting groups into which the electorate divided itself at each election. In a city of 50,000 the average number would vary from five to fifteen representatives. But there is nothing objectionable in such variation in membership, since it would be a matter which the people themselves would determine at each election.

Those who argue against minority group representation forget that we are having minority group representation now by ward and legislative districts. The only difference would be that under the proposed group plan the community, instead of being arbitrarily divided by geographical lines, would be divided by difference in public opinion within the city or community as a whole. Certainly there can be no good reason why a fraction of 10 per cent of the voters

from the city as a whole (assuming that there are ten wards) should not be just as much entitled to representation as 10 per cent of the population within certain ward boundaries.

Under the group plan, all candidates, whether receiving 10 per cent, 50 per cent or 90 per cent of the vote, would be elected. No candidate would seek the defeat of any other candidate. Each would present himself to the voters because of an affirmative attitude towards some principle or policy and not because of opposition to any other candidate.

With a legislative governing body chosen by the group plan we would have all elements better represented. This would be an advantage in the selection of a city manager or a board of administrative managers, similar to Jamestown's plan, appointed partly by the mayor and partly by the city council and composed of men experienced in business, civic and engineering affairs, entirely divorced from politics.

SUBSIDIZED HOUSING IN NEW YORK

BY LAWSON PURDY

The city of New York proposes to clear certain slum areas by means of excess condemnation, the cleared land to be leased to private builders who agree to erect tenements to be rented at not more than eight dollars per room. :: :: :: :: :: :: ::

On July 28, 1927, the board of estimate and apportionment of New York resolved when making public improvements, such as street openings in congested areas, excess condemnation should be employed for the purpose of eliminating the slum and for the development of new housing upon the cleared land.[1]

At the same meeting the mayor offered a local law to supplement the charter in relation to the leasing of additional real property taken by the city in excess condemnation proceedings. This proposed law was subsequently enacted with slight changes. Its effect was to amend Section 205 of the charter by which leases of city land are limited

[1] The text of the resolution is as follows:

Whereas it is now generally recognized that congested and unsanitary housing conditions which exist in certain parts of the City of New York are a serious menace to the health, welfare and comfort of the people of the whole city;

Whereas such conditions have arisen for the most part in those older portions of the city which are marked by dark, narrow streets and by the absence of park, playground and other open spaces;

Whereas it has been found through years of endless effort and public discussion that the gigantic work of rebuilding these unsanitary and unlivable areas of the city cannot be done entirely by private initiative or interest, however philanthropic, and that public, community and governmental measures should be invoked to begin a comprehensive cleaning up of the unlivable housing conditions described in exhaustive reports made upon the subject; and

Whereas the Constitution of the State of New York in Article I, Section 7, provides as follows:

"The Legislature may authorize cities to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating parks, public places, highways or streets; provided, however, that the additional land and property so authorized to be taken shall be no more than sufficient to form suitable building sites abutting on such park, public place, highway or street. After so

to a term of ten years with one renewal. It is now proposed that the term of a lease of property acquired through excess condemnation proceedings may be determined by the board of estimate and apportionment. The text of the proposed law, being Section 970–c of the charter, is as follows:

> Whenever additional real property is acquired by the city in excess condemnation proceedings pursuant to the provisions of section nine hundred and seventy–a, such additional real property may be leased by the city, acting through the board of commissioners of the sinking fund, for housing purposes (including stores on the street level) for such term as the board of estimate and apportionment may determine; and the provisions of section two hundred and five, or of any other section, limiting the term of leases by the city to a different period, and requiring appraisal shall not apply to such a lease for such purposes.

This local law must be submitted to popular vote at the election in November. It will be noted that it does no more than under certain conditions to remove the limitation upon the length of a lease. Section 205 of the charter still requires that such property shall be leased "for the highest marketable price or rental at public auction or by sealed bids and always after public advertisement for a period of at least fifteen days in the City Record."

It seems that the action of the board of estimate at the instance of the mayor was induced by certain representations made by various people that if given a lease on some terms acceptable to them of land along the line of Allen Street, now proposed to be widened, they would erect tenements and restrict the rental to eight dollars a room. It was reported in the *Times* of July 29, in connection with the report of the action of the board of estimate above quoted, that Charles L. Craig, former city controller, addressed the board. "He said he appeared in behalf of clients, whose names he was not yet at liberty to disclose, but who were eager to coöperate in the Mayor's plan for better housing and who had pledged

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much of the land and property has been appropriated for such park, public place, highway or street as is needed therefor, the remainder may be sold or leased."

Which provision authorizes what is commonly known as "excess condemnation," or the acquisition by condemnation, or in connection with a public improvement, of more land than is necessary for such improvement, such additional land being contiguous to the land necessary for the improvement;

Whereas, pursuant to such constitutional provision, an amendment to the Greater New York Charter was enacted by Chapter 112 of the Laws of 1916, which said amendment added to the Charter Section 970–a and re-enacts in fuller detail the constitutional provisions above quoted.

Whereas one of the purposes of excess condemnation, as expressly contemplated by the constitutional and statutory provisions above quoted, is to permit the elimination of slum areas and the improvement generally of housing conditions by enabling the city, in connection with the widening or laying out of streets and parks, to condemn abutting property suitable for building sites, which the city may then lease to private persons and corporations for long terms on conditions governing the construction and renting by such persons and corporations of the homes constructed upon building sites so acquired by the city.

Whereas excess condemnation has been employed with conspicuous success in Europe, notably in London and Brussels, for rehabilitation of congested areas: Now, therefore, be it

Resolved, That it is the sense of this board that excess condemnation should be employed by the city when making public improvements in congested areas for the purpose of eliminating so-called slum districts and promoting housing conditions.

Resolved further, That the President of the Borough of Manhattan be, and he hereby is, requested to submit to this board a statement of all street-widening and similar public improvements which are projected or contemplated by him, so that this board might consider which improvement or improvements shall be accompanied by excess condemnation proceedings with the project of eliminating such areas.

themselves to lease and build modern apartments with rentals at eight dollars a room upon two more blocks of the area along the line of Allen Street between Delancey and Division Streets. The erection of five blocks of new buildings in that section had been already promised by August Heckscher, Paul Block and other capitalists and philanthropists."

EXCESS CONDEMNATION

The above quoted amendment to the constitution of New York, adopted in 1913, was the culmination of a campaign commenced in 1908; substantially the same amendment that was finally adopted was approved by the legislature of 1909 and by the succeeding legislature. It failed of adoption by the people when submitted, presumably because at the same election five other amendments to the constitution were submitted including an amendment increasing the salary of the governor of the state. North of the Harlem River the feeling was very strong against that amendment, increasing the salary of the governor. It failed by a very large majority and it was generally stated that persons interested in defeating that amendment were so much interested that they voted against all the amendments.

Persons interested in excess condemnation resumed the effort and the legislature of 1911 or 1912 again proposed the amendment. It was approved by the next legislature and when submitted to the people carried by a reasonable majority. During all that period of five years no public representation was made that the amendment was intended to be used to secure land for the purpose of letting it or selling it below its market value or subject to any restrictions which would reduce its market value. Certain very definite arguments were used for the passage of the amendment which are recited in the Report of the Committee on Taxation of the City of New York in relation to excess condemnation, addressed to the mayor in May, 1915.

The chief argument was the fact that when a street is opened or widened in built-up territory irregular parcels of land are left which act as a barrier to contiguous land and the appropriate improvement of land fronting on the new or widened thoroughfare is hindered and delayed. Second, that land adjacent to the new or widened thoroughfare is assessed for the improvement and that when by reason of the irregular character of the parcels the land cannot be utilized to advantage the burden of these assessments is excessive.

It was pointed out at the time that the city of New York had been a pioneer in the matter of excess condemnation, being the first city in the world to have any such power. By an act of 1812 the city was given power to take remnants of land in addition to land for a street. The power was inadequate, but it was used in a number of proceedings until 1834, when the power was held unconstitutional in the matter of Albany Street.

LONDON EXPERIENCE

The experience of London was cited where excess condemnation has been used extensively and, in particular, the illustration of Northumberland Avenue which runs from Trafalgar Square to the Embankment. In this proceeding the excess land was sold for more than the gross cost of the land taken, a very unusual result. In the case of new thoroughfares in London, in connection with which excess condemnation was used over a considerable period of years from 1855 to 1889, 47 per cent of the total cost was recovered. A far more important effect, however, is shown by

the experience of Kingsway, which may still be seen.

Kingsway runs from the Strand to Holborn, is a street 100 feet wide, and was cut through a very bad, irregular, poor section of London. The abutting land has been let subject to restrictions such as to ensure the adequate and appropriate development of property. It is interesting that Bush House now stands at the southerly end of Kingsway and is soon to be enlarged by two wings which will be an ornament to the city of London. From every point of view Kingsway operation has been a success.

Following the adoption of the amendment to the constitution, the legislature added to the charter Sections 970-a and 970-b. The last sentence of 970-a shows the intended use of excess condemnation:

> The board of estimate and apportionment may provide that such additional lands shall be sold or leased subject to such restrictions, covenants or conditions as to location of buildings with reference to the real property acquired for the improvement, or the height of buildings or structures, or the character of construction and architecture thereof, or such other covenants, conditions or restrictions as it may deem proper; and such additional lands shall be sold or leased subject to such restrictions, covenants or conditions, if any, as the board of estimate and apportionment may have prescribed, which shall be set forth in the instrument of conveyance or lease.

There was in the minds of various persons interested in excess condemnation that it could be used in connection with the establishment of small parks, park spaces, new streets, and the widening of old streets in congested sections of the city which are covered with old buildings of an unsanitary character, although this thought was not used as an argument for the adoption of excess condemnation.

When the charter was amended to carry out the intent of the constitution and this sentence above quoted was inserted in the charter the intent is reasonably obvious that when additional land shall be sold or leased the restrictions, covenants or conditions as to location of buildings or the height of buildings or the character of construction and architecture should be such as would tend to enhance the value of the land to be sold by the city and would conduce to the more permanent and satisfactory improvement of such land. There is not to be found either in the constitution or in the charter any provision which can excuse a restriction upon the rental to be charged or limiting the price to be paid. The whole intent is obvious that all shall be done that can be done to enhance the value, increase the price, and increase the rent.

LIMITATION OF RENTALS

Now it appears to be proposed that the city shall lease land acquired by excess condemnation for a long term of years subject to some restriction to the effect that the rentals of apartments shall not exceed eight dollars a room. At the present price of building it is somewhat doubtful whether anyone can erect a building without paying anything for the land and let it for eight dollars a room and get 6 per cent on the cost of the building alone. But in any event, whether that can be done or not, it seems reasonably clear that a very much larger rent can be got for suitable tenement accommodations in buildings erected on Allen Street with a park on one side and a wide street on the other, and the effect of the proposal, if carried out, will be that rooms will be let to some persons for much less than other persons would pay for them if they had the opportunity to hire them.

It does not seem that this proposed amendment to the charter to be voted

on in November is bad in itself, because it is obvious that land cannot be let for ten years with the prospect of obtaining a satisfactory improvement. As to whether it shall be let on long lease or sold depends upon the conditions at the time. A better result may be obtained by a long lease than by a sale. This was found to be the case in London. The city received more for its property by letting it on long lease than it could have received by sale. In addition to obtaining more money and partly for the purpose of securing more money, the council has controlled the architectural treatment of buildings. In this connection, the Improvements Committee said:

> In our opinion every effort should be made to secure that the great thoroughfare from Holborn to the Strand in addition to utility should possess beauty and civic dignity. . . . If this be secured, the Council will obtain the highest possible amount for the land.

While it does not appear that there is any objection to the removal of the ten-year limit upon leases, it does seem that the purpose is to do that which may reduce the value of the land and not increase it, and it is a serious question whether a taking of land by condemnation with intent to restrict it by limiting the rentals to be charged will be upheld as a taking "for a public purpose." Whether or not the courts would say that it is a public purpose within the meaning of the constitution, that purpose seems to me to be a bad purpose for it will cost some persons money to be given to other persons to be selected by some process.

If certain persons are to be selected as beneficiaries of the use of these apartments at less rental than the apartments would bring, these persons must be selected on some basis. If the basis for their selection is their financial status, then the persons thus favored are the beneficiaries of a form of charitable relief which presumably they do not need. While the relief will be somewhat disguised, it will be no different from free gifts of coal or clothes or a free gift of a sum of money with which to pay the rent they might otherwise be obliged to pay. These tenants become a special class to which most self-supporting persons would not desire to belong. We must recognize the fact, however, that most of us are rather eager to get things for less than they are worth and there probably would be a long waiting list. If these people overcome their natural and proper reluctance to being segregated in a class which receives relief from the city, they have overcome a sense of independence which is a proper sense and to that degree they suffer in their own self-respect. The very persons sought to be benefited are thus, to some degree, damaged by receiving such favors to which all their fellow citizens are not entitled.

If such a plan should be carried out and rentals should be fixed by contract at the same figure throughout the lease, both lessee and lessor will be doing a reckless thing. Such a lease assumes the stability of the dollar and the stability of the cost of building. No man knows today whether the dollar will appreciate or depreciate during the next fifty years. Should the dollar appreciate, that is, should its purchasing power become greater, the rental limit may become no limit at all. In order to keep the buildings full it may be necessary to reduce the rental. On the other hand, should the dollar depreciate in purchasing power the operating costs of the buildings will increase and the limit will become more and more onerous upon the lessee. The ordinary builder takes the hazard of the change in the value of the dollar. If the dollar depreciates he has the chance

of considerable gain. If, on the other hand, the dollar appreciates, the ordinary builder may lose his property. With an appreciating dollar it becomes harder and harder to pay the interest on the principal of the mortgage. The purchasing power of the dollar may so increase that the property is worth less than the mortgage. The ordinary real estate owner must take the hazard, but is compensated by the possibility of gain. Under the plan of fixing rentals for a long period, the lessee cannot gain if the dollar depreciates and must lose if the dollar appreciates.

The power of excess condemnation can be used to clean up bad spots in the city. It has been done elsewhere, it can be done here; but it should be done with every possible safeguard which will tend to enhance the value of the land and conserve the value of the buildings that may be erected. We can redeem a few blocks at a time on the lower east side, in parts of Brooklyn, perhaps in parts of the Bronx, and make those few blocks centers of improvement which will radiate and so more rapidly bring about further improvement and the destruction of old, unsanitary buildings. Such a plan as is proposed for limiting rentals will, if carried out, be no more than a sterile investment which will pauperize some few people and do nothing by way of example to induce further improvement.

COLUMBUS, KENTUCKY, MOVES TO A NEW LOCATION

BY J. CATRON JONES
University of Kentucky

After years of struggle with Mississippi floods a complete town moves to high ground nearly a mile away. Citizens exchange old sites for new. :: :: :: :: :: :: :: :: :: ::

Columbus, Kentucky, one of the oldest towns in the middle west, is going through an experience which is probably unique in the history of modern towns and cities. The moving of a house for half a mile or so is not unusual in these latter days, but the wholesale removal of an entire town of a thousand or more people is a more ambitious undertaking. In the history of town and city life it is not at all unusual to find that a town has been wiped out, or nearly so, by some disaster such as the volcanic eruption of Mount Vesuvius. On the other hand, it is a very common occurrence to see towns fall into decay due to a varied number of circumstances and pass out of existence. There are also a great number of instances where a town has moved by a gradual process in one direction until it has completely abandoned the section that was once the center of activities. There are also a number of cases on record where towns have been built almost over night in the vicinity of a newly discovered gold field, or, in some cases, in the center of a new partition of government lands, but nowhere have we found a record of a city which has calmly decided to move itself to another location, as is the case with Columbus, Kentucky.

The work of removing the city began

September first, and it is expected that the old Columbus will be completely razed and the new one in full operation as a going concern by Thanksgiving. The American Red Cross has been the guiding genius in effecting the transfer of the city to its new location.

Columbus was settled more than a hundred and forty years ago and for a great many years was one of the most prosperous of the many growing towns in the middle west. Its location, just a few miles below the mouth of the Ohio River at the extreme western end of Kentucky on the banks of the Mississippi River, made it a very advantageous river port and it early became a very prosperous shipping center. By the outbreak of the Civil War, Columbus had become a town of approximately ten thousand inhabitants and was, in a sense, the gateway of Kentucky and the Ohio Valley. However, as the transcontinental railways pushed westward, the importance of the town decreased and the steady growth it had had up to the Civil War ended.

THE FLOODS PREVAIL

Soon the once promising city began a slow process of decay, which has gone on up to the present time. But the coming of the railroads was not the only enemy of the progress of Columbus. As the years went by the Mississippi River became more menacing and year by year as the floods came down in the spring they took small bits of Columbus with them. During the last fifteen years more than fifty houses and almost as many acres of land were carried away in this manner. Such dykes as had been constructed were insufficient to prevent these annual inroads upon the town. During the past fifteen years the floods not only carried away large portions of the city, but every year, and sometimes two or three times in a single year, the flood waters of the Mississippi overran practically the entire town and caused the inhabitants to desert their homes and places of business for many weeks. Despite these disasters the citizens of Columbus refused to move or submit to the will of the Mississippi. When a series of floods came in the spring of 1927 and not only carried away ten houses, including the old hotel, but inundated the entire town with some fifteen feet of water for several weeks, the spirit of the stoutest hearted citizens was broken. Under these circumstances they were willing to listen to a plan of the Red Cross to abandon the old city to the ravages of the Mississippi and move to higher ground.

THE RED CROSS HELPS

The Red Cross purchased a tract of eighty acres of land that is situated on a bluff some hundred and four feet high and nearly a mile east of the banks of the Mississippi. The entire tract of land was deeded to the city and in addition the Red Cross made a gift of $50,000 toward furthering the work of moving the city. The plan to move the city was as follows:

As residents remove their homes from old Columbus to the new city they deed their old lots to the city of Columbus with the stipulation that they will never be used for residential purposes again. The city in turn deeds them a lot of equal size and value and, as nearly as possible, in a similar location in the new town.

When the plan was perfected by the first of September the work of moving to the new site was begun. More than one hundred homes and business houses will be moved during the three-month period following September first. About half of these will be placed on rollers and pulled by tractors to the new location, while the balance will be torn down and hauled to new

Columbus and rebuilt in new locations. Many new homes and business places will have to be constructed to replace the homes and business houses which were washed away or otherwise destroyed by the flood.

The first estimate of the Red Cross was that the entire change could be made at a cost of about $100,000. Since the work has begun it is now thought by some that the complete job will entail an expenditure of around a quarter of a million dollars. This, of course, will include not only the removal of the old houses, the construction of new ones to take the place of those that were destroyed by the flood, but the construction of new sewers, laying out and installing of new water lines, construction of new reservoir, the transfer of telephone and telegraph lines, and the laying out and surfacing of new streets.

ONCE CONSIDERED FOR NATIONAL CAPITOL

It is an interesting coincidence that the early settlers of the town of Columbus once held high hopes that the National Capitol would sometime be located on the site which has now been washed away by the flood waters of the Mississippi River. At various times in the early part of the past century feeble efforts were made to get the Capitol moved to the middle west and the inhabitants of Columbus were strong bidders for the location.

It is also recalled that it was at Columbus, Kentucky, that a span of heavy chains was stretched across the Mississippi in an effort to hold back the gun boats of General Grant, which were later to invade the interior of Kentucky and demolish Fort Donaldson. Incidentally, the anchor and some of the links of these chains had been preserved and are to be placed in the center of the town as a monument to the heroic efforts of the Confederate soldiers of the Civil War.

The new town is essentially one of the Main Street variety. The main thoroughfare of the new city has been named Hoover Parkway as a tribute to Mr. Hoover in giving aid to flood sufferers. This Parkway will contain most of the business houses of the town. The other streets which lead off from the main thoroughfare will be used for residential purposes and most of them will be named for heroes of the Flood Relief Work.

FREE CITIES IN OKLAHOMA

BY HARRY BARTH
University of Oklahoma

Oklahoma gives its cities greater freedom of local self-government than do most other states. State control is limited to education, public utility rates, tax limits, and methods of removing city officials. ::

Oklahoma has a home rule situation which would be regarded as ideal in many states. The cities are in large measure free of state interference, except in matters clearly general in character. So far as the framework of government is concerned, they are almost completely autonomous. This state of affairs bears every indication of permanence, for home rule here is generally regarded as successful. In addition the cities and towns are organized in a strong municipal league, whose primary purpose is the defense of municipal liberty. Should any attempt arise to lessen independence, a determined fight would be made with bright chances for success. The league has every major city in its membership, and key men in important places. Furthermore, Oklahoma has a spirit of local self-government which for some occult reason has permeated into the rank and file of city officialdom.

The explanation for the strength of home rule in Oklahoma cannot be given with completeness, and yet several hypotheses may be indicated. For one, Oklahoma came into the Union with Jacksonian democracy running high. In 1907 Oklahoma bore a striking resemblance to the Tennessee and Ohio of 1828. There was abundant faith in the political competence of the average man which caused the adoption of the initiative and referendum for state and local government. There was a fervid belief in the excellence of direct elections of all officers which has cumbered the ballots of every political agency. There was lastly—and this is the important point for our purposes—an acceptance of the theory that government should be kept close at home and that the form of local government was a matter of local choice. Acting with the last factor was the failure of state control to solve the problem of local government, a condition plainly evident in the United States by the last quarter of the nineteenth century.

TOWN CHARTER MAKING

The Oklahoma Constitution states that "any city containing a population of more than two thousand inhabitants may frame a charter for its own government. . . ." (Article XVIII, Section 3a.) This section also outlines the procedure for the adoption of a charter which will be indicated later. The effect of this constitutional pronouncement is to place home rule on a firm legal basis. The clause is self-executing and does not require action of the state legislature to be vitalized.[1]

For communities smaller than two thousand a state governing act applies. Yet this law is most generous. The people living in the area to be organized have complete control of the situation. If the residents at a cross road decide they want government, they do three things. A survey of the proposed town is made, a census is taken, and a petition of one third of

[1] *Owen* v. *Tulsa*, 27 Okla. 264; 111 Pac. 320.

the qualified voters asking incorporation is gathered. These three data are submitted to the county commissioners, who then call an election to determine whether a town shall be created. Incidentally they give the town a name. Frequently great ingenuity is used in christening the prospective communities. Thus a recent incorporation in the Seminole field is Bowlegs, while one in Cleveland County is called Corn. If the voters are favorable, there is a town. Whenever they decide to dissolve the corporation, they may do this by simple election.

The town government is not complex. There is a board of trustees, usually of three members, though four or five are possible. In addition, a clerk, a treasurer, an assessor and a justice of the peace are elected. Frequently the chairman of the board acts as justice of the peace. The government is usually one of amateurs, —local celebrities who devote part of their time without pay to civic service. Problems are simple and the governmental machinery is adequate.

CITY CHARTER MAKING

When a community achieves two thousand inhabitants it may rise to the dignity of a city. The process again rests on local choice. Thirty-five per cent of the voters petition the governor, who then calls an election to determine whether the town shall become a city, and who the city officials shall be in case the voters decide to change the government. A majority vote governs.

The city government provided is either a home rule charter or else a statutory form outlined by the legislature. A town of two thousand may adopt a charter in the same manner as a city. Usually, though, a town adopts the legislative government when it changes to a city and frames a charter afterwards.

The legislative form is true to the spirit of Andrew Jackson. There is a council of two men from each ward and a board of education of like size. In addition, nine elective officials are provided: a mayor, a clerk, a police judge, a city treasurer, an attorney, a chief of police, an assessor, a street commissioner and a treasurer of the school board. This is popular election gone wild. The motivation for a home rule charter frequently is the desire to get away from this pathologic form of democracy. Efforts have been made to simplify this form of statutory government in the last two sessions of the legislature, but without success.

When a city sets out to make its own charter, the first step is for the council to call an election of a board of freeholders equal in number to the council. This board frames a charter, and presents one copy to the city executive and one to the county register. Publication for three weeks in some paper of general circulation is stipulated. Then comes a direct election. The charter, if adopted, goes to the governor, who is charged with examining it for conflicts with the state constitution. This is usually a formality. The charter may be repealed, if it contains nothing to the contrary in its text, by a majority of the voters at an election, called by either the city council or on petition of 25 per cent of the voters.

There are about eighty-five cities in Oklahoma with a population of two thousand. Over half have framed their own charters. Half the charter cities have the commission form; half are managerial. Mayor-council charter cities are exceptional. Fifteen years ago new adoptions were usually the commission type. Recent adoptions have all been the managerial form.

The date of a charter will indicate its nature, for they usually reflect current fashions in charter making.

The outstanding fact about local government in Oklahoma is satisfaction with the machinery for charter making. There is much criticism of specific administrations in various cities, but the fault is clearly recognized as lying with the individual city. Above all, the citizens cannot pass responsibility for an ineffective governmental machinery on to the state legislature. The remedy lies at home, and people are generally conscious of the fact. Nor have the cities abused the power of creating their own governmental forms. Usually great interest is taken in proposals to amend existing charters. Where changes have been made, they have been the result of study and public discussion after consultation with the state bureau of municipal research.

THE SCOPE OF LOCAL SELF-GOVERNMENT

The form of city government is just one side of the picture. The other concerns the powers of local communities. How far may a city in Oklahoma determine its own activities? How far may the state legislature interfere?

The answer to this question cannot be given with exactness. There are a number of decisions, and these have pricked the line between local and state authority with some certainty. Yet there are areas of confusion, and areas where there are barely grounds for hypothesis. On the whole, though, it may be said that there is substantial autonomy for an Oklahoma city. This is partly because of the home rule provision of the Constitution, partly because of a liberal grant of powers from the legislature.

The general theory underlying the attitude of the courts was expressed in a 1923 decision. On this occasion the court announced that "the principle underlying home rule government in Oklahoma is that, as to purely municipal matters, the power of the people is coördinate with the power of the Legislature itself." [1] The application of the principle in this case was that street paving was a municipal problem, and that, specifically, the assessment and cost of street paving properly belonged to municipal affairs and appertained to the local government of the corporation. As a matter of fact, the legislature passed a comprehensive law governing street paving the same year the decision was made, and this law is closely followed by the cities generally. Yet the right to deviate from the legislative procedure seems settled by the case. The important point is the doctrine that in purely municipal affairs the city has powers which the legislature must respect.

A number of cases have arisen to test the supremacy of city charters where these conflict with state laws. The general state law makes mandatory the primary method of nomination. The Ponca City charter provides for nomination by petition. The Supreme Court held that the method of nomination is a matter of purely municipal concern and ruled, therefore, that the charter governed.[2] In Okmulgee a case arose over the method of charter amendment. The state law provides regulations governing amendment petitions; the charter does likewise. Here again the Supreme Court decided in favor of the charter.[3] An Oklahoma city case involved the time for elections.

[1] *Berry* v. *McCormick*, 91 Okla. 211; 217 Pac. 392.

[2] *State, ex rel. Short* v. *Callahan*, 96 Okla. 276; 221 Pac. 718.

[3] *In re Initiative Petition, City of Okmulgee*, 89 Okla. 134; 214 Pac. 186.

The charter and state laws fixed conflicting dates. It was held that the time of holding municipal elections is a mere municipal matter.[1] This case also held that the adoption of the commission form of government came within the scope of powers of a municipality. The city of Guthrie provided non-partisan elections and also permitted the mayor to appoint the local election officers, though the state law vested this power in the county election board. The Supreme Court decided in favor of the city charter on both points, holding them local matters of local interest.[2]

There is only one case in which an adverse decision was given, and here the reason was the indefinite character of the charter provision. A mayor examined into the authenticity of signatures on a referendum petition, claiming this right under the charter. The court could find no such power in the charter, and ruled that the state law which was silent on this point governed. But, even though deciding against the local authorities, the court gave an excellent statement of the theory: "It is well settled that a charter, when adopted by the people and approved by the governor . . . becomes the organic law of the municipality and the provisions of the charter supersede all laws of the state in conflict therewith so far as such laws relate to purely municipal matters." [3]

These cases indicate clearly that governmental mechanics are a matter for local decision.

An early case, early for Oklahoma (1911), seems to confer a certain police jurisdiction on the local authorities. Here a man was arrested for violating the prohibition ordinance of Tulsa. He made the defence that there was a state law on the subject, that this superseded the local ordinance, that he should be tried under the state law, if at all. The court refused his plea, announcing that a city adopting a charter is accorded full power of local self-government, and as a municipal corporation, under its charter, it has power to enact, ordain and enforce ordinances for the purpose of protecting the public peace, order, health, morals and safety of the inhabitants, even though general statutes exist relating to the same subject.[4]

A case arising ten years later indicates a similar police power, though in this instance the Supreme Court held that the regulations must not conflict with general laws. However, the court did state that charter cities may have wider powers than cities operating under state laws. This statement is not coupled with illustrations and therefore can mean much or little. The ordinance questioned here was one prohibiting Sunday movies and was upheld.[5]

The power of the local authorities to make police regulations is quite broad. This may be based on general grant of power from the state.[6] But the power to make regulations local in character would probably be upheld in the absence of a grant of power by the legislature.[7]

Where the municipality acts to abate a nuisance, the courts will be liberal in their review of the proceedings. In a Ponca City decision the Supreme Court held that "if it appears

[1] *Lackey, et al.* v. *State, ex rel. Grant, et al.*, 29 Okla. 255; 116 Pac. 913.

[2] *Mitchell* v. *Carter*, 31 Okla. 592; 122 Pac. 691.

[3] *Caruth Mayor* v. *State, ex rel. Tobin, et al.*, 101 Okla. 93; 223 Pac. 186.

[4] *In re T. H. Simmons*, 4 Okla. Crim. 662; 112 Pac. 951.

[5] *Ex parte Johnson*, 201 Pac. 533; 2 Okla. Crim. 66.

[6] Compiled Oklahoma Statutes, 1921, Section 4547.

[7] *In re T. H. Simmons, supra.*

that the question of a nuisance or not is one as to which there might be an honest difference of opinion in impartial minds, the action of the city commissioners is conclusive of the question." [1] A decision of this type does not confer a power on the municipality, but it does indicate a freedom in interpretation of power which tends towards a wider scope for local action. The case in point involved the destruction of some shacks in the business district of a rapidly growing community.

An institution which has caused Oklahoma municipal officials much worry is the county excise board. According to the law, every city must submit a budget to this board in July showing how much revenue it expects to receive and its expenditure program for the approaching fiscal year. The board is authorized to revise and correct the spending plan, increasing or decreasing items. On its face this law is a direct infringement on home rule. The board is composed of seven county officers: the clerk, the attorney, the treasurer, the judge, the superintendent of schools, the assessor and one county commissioner. These officials are usually farmers. The effect of the law, if enforced, would be to throw municipal expenditures before a board of farmers for review.

The Supreme Court refused to take the law at its face value. On the contrary, it announced that "the power and authority to revise and correct the tax budget or estimate of the city of Oklahoma City (the city involved in this particular suit) is with the mayor and city commissioners, and that the county excise board has no authority thereover." [2] If this case stands, the cities need not fear the county boards. A more recent decision held that expenditure and revenue reports had to be made to the boards, though the court refused to state that the boards had power to revise them.[3]

To summarize the favorable aspects of home rule: The city in Oklahoma has full power based on the Constitution to make its own charter. The city has complete control over election machinery, and the mechanics of government in general. The city probably has a police power independent of legislative action. So far at least, the Supreme Court has refused to enforce a law granting a county board control over municipal finances.

A FEW LEGISLATIVE RESTRICTIONS ON MUNICIPAL HOME RULE

What subjects have been looked upon as general rather than municipal in character, and beyond the scope of local authority?

Education is a general matter. "The free public school system is a matter of general state concern and not a municipal affair." [4]

Rates for public utilities are looked upon as beyond municipal control. Said the Supreme Court in 1921, "The supreme Legislature of the state having seen fit to place the power of regulating rates for gas furnished by public utilities in the Corporation Commission, in our judgment the state has such sovereign interest in the subject of legislation as to preclude the chartered cities of the state from entering the field by charter provisions." [5]

[1] *Calkins* v. *Ponca City,* 89 Okla. 100; 214 Pac. 188.

[2] *Bodine* v. *City of Oklahoma City, et al.,* 79 Okla. 106; 187 Pac. 209.

[3] *Ryan* v. *Roach Drug Co.,* 113 Okla. 130; 239 Pac. 912.

[4] *Board of Education, City of Ardmore, et al.* v. *State, ex rel. Best,* 26 Okla. 366; 109 Pac. 563.

[5] *City of Bartlesville* v. *Corporation Commission,* 82 Okla. 160; 199 Pac. 396.

The tax limits are looked upon as matters of state concern. The constitution places the municipal tax limit at ten mills for current expenses; the legislature, at six. Which limit applied to charter cities? The Supreme Court ruled that the legislative limit governed.[1] "We conclude," said the court, "that the amount of tax authorized to be levied by a municipality and the manner of levying same is a matter of general public interest and can be accomplished only by general laws, and not by charter provisions." [2] A case of lesser importance stated that "taxes in this state must be assessed and collected pursuant to and under the authority of general laws enacted by the Legislature. . . . The contention that cities operating under a freeholder's charter form of government have the power to determine what are purely municipal affairs . . . is untenable. . . . It is a well settled principle of law that there can be but one sovereign power in the government of a state." [3] This case tended to overthrow an earlier case, but, of course, it governs.[4]

There is one other case which limits home rule. This involves the right of the state to fix methods of removing incompetent city officials from office. The present Oklahoma law provides for indictment by grand jury and jury trial as the method for removing officers not subject to impeachment.[5] A chief of police of Tulsa, a charter city, indicted by grand jury for non-enforcement of prohibition and prostitution ordinances, appealed to the Supreme Court for an order preventing the trial from taking place. He alleged that the charter of Tulsa provided for removal of negligent officials by the city commissioners, and that since the charter covered the matter, the state law was inoperative. The court held that the state is interested in law enforcement and may provide a method for removing negligent officials supplemental to the procedure in the charter.[6]

We find that the legislature may control the city in educational matters, in tax limits, and in the method of tax collection; may provide an alternative method of removing city officials derelict of duty; and exercises supreme authority over public utilities. To what extent do these limits on city control interfere with home rule? Obviously, in the fields affected home rule ceases.

It is difficult to see how the state could permit autonomy in educational matters. After all, education is a matter for action by the supreme policy-determining agency in the state. It is one of the most important functions of a body politic. It concerns the welfare of the entire people; not only the people of specific areas. Likewise, there can be little objection to the Oklahoma method of removal of officers who are unfit for service. The procedure involves a trial by a jury of men from the community served. This places the responsibility on the locality concerned. The Oklahoma law may be contrary to home rule principles and yet it does give substantially local control.

Control over utility rates is in a somewhat different category. There are many sound arguments for local control. Yet the Oklahoma gas and electric services are carried on in large

[1] *Oklahoma News* v. *Ryan*, 101 Okla. 151; 224 Pac. 969.

[2] 101 Okla. 159.

[3] *City of Sapulpa* v. *Land*, 101 Okla. 22; 223 Pac. 640.

[4] *City of Collinsville, et al.* v. *Ward, et al.*, 64 Okla. 30; 165 Pac. 1145.

[5] Compiled Oklahoma Statutes, 1921, Sections 2394–2425.

[6] *State, ex rel. Burns* v. *Linn, District Judge*, 49 Okla. 526; 153 Pac. 826.

measure by three large concerns, each of which caters to a long chain of cities. It is difficult to see how a system of local regulation would work without friction between governing bodies. The regulating authority as a general rule must be equal in scope with the subject of regulation. State regulation seems necessary where a utility serves as many as forty cities.

On the other hand, it seems wise to let the city retain a residue of authority. Then should conditions become intolerable, the city might step in and clean up the situation. Prior to 1925 the cities of Oklahoma exercised a certain control in extremities, as the gas, electric and water companies operated under twenty-five-year maximum franchises. In 1925, however, the legislature passed a law allowing utilities to receive permits to operate indefinitely in exchange for the franchises. These permits were subject to revocation only by the state legislature and only in case no harm was done the utility. A committee of attorneys of the municipal league is now engaged in fighting the constitutionality of this law before the Supreme Court. If the law is called invalid, home rule will not have vanished entirely in this field. If it is termed valid, the cities will have lost the last vestige of utility control, and this will be unfortunate.

To the city officials, state control over local taxes seems a vicious interference with local rule, and a case of pure meddling on the part of the state legislature. A rigid limit cannot possibly fit the needs of diverse communities of populations which range greatly in size. Furthermore, tax limits seem a type of paternalism to which no self-respecting city should be subjected. It takes the burden of good government off the citizens and places it nowhere. It assumes that the citizens are incompetent to govern themselves. After all, if things go wrong, it is the local community which suffers, and the responsibility for competent administration should rest with the persons most directly concerned. Here is the most pernicious type of interference in Oklahoma.

The policy of the cities is to win their point by the gradual process of piecemeal gains. The constitutional limit is ten mills, four mills beyond the legislative limit. Already the cities can exceed the six mills by one mill for libraries and a half mill for cemetery purposes. It is hoped gradually to eat up the four mills by special grants, and in the course of time success will probably be achieved.

OKLAHOMA A LEADER IN HOME RULE

The subject of this article is "free cities in Oklahoma." Are they free? The answer depends partly on opinion. They are not free in an absolute sense; but absolute freedom is impossible. Yet they do have much more freedom than the cities of most states. They have control over their machinery of government and they have local police powers which are almost unlimited. There is only one clearly bad restriction and this involves taxation. But there is a distinctly favorable sign. The cities of Oklahoma are organized and they have nailed the flag of municipal liberty to their city halls. United in a common cause, they will carry on the age-long struggle for greater powers of local self-government.

AMERICAN GOVERNORS

BY AUSTIN F. MACDONALD
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The governorship may sometimes be a stepping-stone to fame; usually it is a toboggan to political oblivion. Greater emphasis on the administrative function of the governor is needed. :: :: :: ::

THERE was once a time in the long forgotten days of early statehood when the legislature was generally regarded with popular approval and the governor with popular distrust. In virtually every state the assembly was looked upon as the people's assembly, jealously guarding the rights of the masses against the fancied attacks of over-ambitious executives. But in more recent years public opinion has undergone a marked change. The governor and the state legislature now find their relative positions in popular esteem practically reversed. The governor has become the spokesman of the people, formulating the policy of the state. He is expected to use his veto power and use it freely to correct the unwise acts of the assembly. He is expected to force recalcitrant legislators into line, and compel the adoption of his policies. He is the head of the state in name, in popular esteem—in everything except authority. And the ironical part of the whole matter is that authority is the one thing he needs to made him head of the state in fact.

In nearly every state he shares his authority with a number of elected executive officials over whom he can exercise no control. Most of his appointments are made "by and with the advice and consent of the senate," and therefore can scarcely be said to be made by him. State constitutions and state laws alike bind him in a tangled net of red tape from which he finds it impossible to free himself. In more than half the states his term is still fixed at two years—scarcely long enough to formulate a policy, much less execute it. A number of our commonwealths add insult to injury by making the governor ineligible to succeed himself.

It is generally agreed that the calibre of the men who become the governors of our states is a matter of the very greatest importance. Second-class men will never produce first-class administration. Yet we have done almost nothing to make the job sufficiently attractive to draw the type of men we need. Certainly the salaries paid are not an adequate inducement. They average less than seven thousand dollars a year. The division of responsibility does not appeal to men who expect to produce results. In fact, the dignity and prestige which inevitably attach themselves to the gubernatorial office seem to be the only apparent reasons why men of ability and training would offer themselves as candidates.

187 GOVERNORS STUDIED

A consideration of these facts led the writer to make a somewhat superficial examination of the records of the men —187 in all—who became governors of the states of the American Union during the decade from 1900 to 1910. It was hoped that in this manner some definite conclusions might be drawn as to the types of men who become our chief executives. The first ten years of the present century were chosen be-

cause the use of a later period would have precluded the possibility of examining subsequent careers with any degree of assurance that the final word had been spoken. Some of our governors of 1910 may still be elevated to high office, but the chances are that their period of service has passed.

The results of the investigation were surprisingly encouraging. Nearly half of the men were college graduates, and most of the remainder had received some form of specialized training—usually in law. In fact, an examination of vocations showed that 48 per cent of all the governors were members of the bar. The merchants came in a poor second, with 10 per cent, and after them trailed the manufacturers, with 8 per cent. Below is the compiled list of occupations:

VOCATIONS OF STATE GOVERNORS, 1900–1910

Lawyers	89
Merchants	18
Manufacturers	15
Farmers [1]	14
Bankers	12
Newspapermen [2]	10
Physicians	6
Contractors	3
Clergymen [3]	2
Army officers	2
Sailors	2
Railroad man	1
Educator [4]	1
Civil engineer	1
Mine owner	1
Quarry owner	1
Oil producer	1
Timber owner	1
Unclassified	7

This list indicates that the governors stood fairly high in the occupational scale. True, there are a number of things that it does not make clear. "Lawyer," for example, is a very elastic term. The hundred-dollar-a-month employee of a small real estate firm is a lawyer. So is the successful corporation attorney. Many a so-called lawyer in politics has never handled a dozen cases in his life. And so it is with several of the other groups. "Merchants" include everyone from the department store owner to the corner grocer.

[1] Includes planters, livestock growers, and the like.

[2] Four publishers and six editors.

[3] Includes one missionary.

[4] A college president.

REPRESENTATION OF BETTER CLASS

Making due allowances, however, for inevitable weaknesses in the classification, it seems clear that our governors are fairly representative of the better class of business and professional men of their respective communities. The most serious charge that can be brought against them on this score is that their business experience seldom affords them opportunity to develop as administrators. They must usually acquire the art of organizing departments and bureaus, of solving the problems connected with the supervision of the work of thousands of men and women, after they take office. They become good administrators by the slow and painful process of making mistakes while the public pays the bills, unless their previous political experience has been such as to give them the necessary background. And in most cases it has not been adequate.

Eighty-four per cent of the governors whose records were examined had held public office previously. There were relatively few who had not held at least two offices each; the average was slightly more than two per man. Some of the positions held were of minor importance, as might be expected. The distinguished record of one governor prior to his elevation to the chief executive post of his state was: county treasurer, county clerk, sheriff, assessor. But his case was not typical.

One hundred and thirty-four of the 187 men studied had held public offices of some importance before becoming governor. One hundred and thirty-two had been members of either house of the state legislature, and nearly one-fifth of these had been presiding officers. Twenty-seven had been judges of state courts, one of them a chief justice of the state supreme court, and six others associate justices. Twenty-six had been members of the federal House of Representatives, but only one sat in the Senate. Fifteen had been mayors of cities, and nineteen, members of city councils. Twenty-two had been heads of administrative departments of the state government. Superficially this is not a bad record. It is much better than the average American, with his cynicism toward all things political, would expect to find. Its most discouraging feature is the clarity with which it reveals the fact that our governors do not receive in their previous political experience the training in administration which is usually lacking in their business careers. Not more than forty of the men whose records were examined held administrative positions which could by any stretch of the imagination be thought to give them the background necessary for the office of governor. Among these forty were the mayors of several cities, members of the cabinet of the president of the United States, city and county treasurers, and such state officers as secretary of state and attorney general.

MORE INFLUENTIAL IN LEGISLATION

Though the governor is in name and in logic the chief executive officer of the state, he often finds that under the state constitution and statutes he has more control over the making of laws than their enforcement. His message to the legislature is a splendid opportunity to appeal to the people of the state. His veto power is a weapon not to be despised, and he uses it freely. In those states which give the power to veto items of appropriation bills the governor virtually determines the fiscal policy of the commonwealth. Walter F. Dodd sums up the result of this condition of affairs when he writes: "In his discouragement over any attempt to control the state administrative organization, the governor is likely to give up the administrative task as a hopeless one, and to turn to the field in which he has greater power, that of legislation." [1] The likelihood is increased several fold when the governor is a man with little or no understanding of administrative principles and methods. In state after state, governors with but slight executive capacity and no executive training have been elected and reëlected on issues connected with state policy. A promise to abolish the trusts may gain more votes than four years of wise and honest administration.

After two or four years of office the governor of necessity relinquishes the reins of power unless he is reëlected, and usually he is not. At the end of his term, however, he is potentially a more valuable man to his state than when he first assumed office. He has learned something of the technique of administration. He knows the needs of his commonwealth and the weaknesses of its government far better than most of his fellow citizens. He is a man who undoubtedly should be retained in the service of the state whenever possible. If placed at the head of an administrative department his experience should count for much. If sent to the legislature, where in all probability he has already served an apprenticeship, he should prove a most valuable critic of the administration.

[1] State Government, p. 246.

GOVERNOR'S CHAIR END OF POLITICAL CAREERS

Unfortunately, the governorship has seldom been merely a milestone in a life of state service. Usually it has marked the end of a political career. According to Everett Kimball, "today governors regard the office as a stepping-stone to something higher—to the senate or the president's cabinet, or even to the presidency itself." [1] If governors are really looking for higher political honors, most of them must be bitterly disappointed. Of the 187 men whose records were examined, 70 per cent never held public office after leaving the governor's chair. That is in striking contrast with the 84 per cent who held office previously. Of the fifty-seven who formed the 30 per cent continuing their public careers, forty-five each held but one office, and no one held more than two.

Even more striking is a comparison of the number of those who served their respective state governments before and after a term in the governor's chair. One hundred and twenty-five held state office before becoming governor; nine held state office afterward. Two-thirds of those previously filling public positions were in the state service; less than one-fifth of those later chosen to office were connected with the state government, and most of them were given positions such as tax commissioner or state historian. In other words, the number of years a governor can remain on the state payroll is limited for all practical purposes by the number of years he can remain governor. Once he vacates that office his public career is likely to be over, unless he enters the service of the federal government. The number of men included in this study who later held federal offices is small—only forty-six in all; but it constitutes more than 80 per cent of those who continued in public life. Thirty were congressmen; twenty-three senators and seven members of the house of representatives. Six entered the diplomatic service. Two became vice-president, and one was chosen president of the United States.

[1] State and Municipal Government in the United States, p. 148.

FEW BECOME DISTINGUISHED LATER

It is easy to recall the names of distinguished men in almost any period of our history who have risen to greater prominence after serving as governor. Hayes, Cleveland, Roosevelt, Wilson and Coolidge were chief executives of their respective states. So were Hughes, Cox, LaFollette, Lowden and Johnson. But these men were exceptions. They may or may not have been skillful administrators, but they were endowed with unusual powers of leadership that captivated the public. And so the public bestowed upon them some of the highest honors it could confer.

Most governors have not possessed to such a high degree the rare quality of leadership, and so have been rewarded with nothing but popular disapproval. The governorship may sometimes be a stepping-stone to fame; usually it is a toboggan to political oblivion. It is a most surprising fact that of the 187 men elected governors of our states during the first decade of the present century, not more than fifteen were ever subsequently elected to any other office. This may be explained in part by an unwillingness on the part of the governors themselves to serve their states in inferior rôles, and also by the relatively small number of elective federal offices. It may be accounted for in some small measure by the death of a few of the men. But for the most part it indicates the extent of the diffi-

culties a governor faces when he tries to retain the support of the public.

Our governors are appealing for popular approval on the basis of their policies and their control of legislation. In so doing they are following a mistaken course. No one but a genius may hope to retain the favor of the fickle public over a period of several years on the strength of his ability to tell the people what they want to hear. What we need is greater emphasis on the administrative functions of the governor, and a recognition of the fact that he is the head of the state administration. This can be brought about in two ways—first, by giving the governor complete authority over a centralized state administration and holding him responsible for the enforcement of state policy; and, second, by choosing governors who are good administrators as well as good handshakers. The first part of this program can readily be carried out. It is well under way today. A number of states have followed the example set by Illinois in 1917 and have reorganized their administrative departments so as to centralize responsibility. Others will fall in line.

But the other and equally important part of the program, the selection of governors with administrative capacity, seems dangerously like a request for the millennium. Public opinion cannot be educated in a day or a decade to demand of its chief executives an entirely new set of qualifications. Until that millennium comes, however, our governors will still devote their time and energy to the shaping of legislation, and state administration will continue to be a synonym for inefficient government.

THE CONS AND PROS OF CIVIL SERVICE IN POLICE ADMINISTRATION

Does the independent civil service commission help or hinder through inept tests and division of responsibility? Excerpts from Report of Sub-Commission on Police of the New York Crime Commission and the reply of the New York Civil Service Reform Association. :: ::

FAILURE OF CIVIL SERVICE COMMISSIONS IN SELECTION OF PERSONNEL

From the Report on Municipal Police Administration to New York State Crime Commission

It is no exaggeration to declare that the selection of recruits and of supervising officers is the most important function that the police administrator has to perform. In no more positive and permanent way can he leave his mark upon the force for his successors to praise or to deplore. The business of selecting policemen is a matter requiring the exercise of a sound judgment and discretion because some of the qualities which enter into the making of a satisfactory police officer are of a nature to defy accurate measurement. It is possible to set up definite physical standards and, within modest limits, of

intelligence also. These are essential qualifications for police service. Equally important, however, are such matters as integrity, tact, physical and moral courage, initiative and personal force. If the police recruit lacks any of these in marked degree he is clearly unfit.

Faced with this large task of measurement and selection the civil service system has confined itself to standards of measurements which are largely arbitrary. Tests of penmanship, spelling, arithmetical fundamentals, knowledge of geography, and the like go but a very little way in the selection of police personnel. It is of small moment that the applicant can locate the Tropic of Capricorn, or compute the number of rolls of wall paper required to cover a room of given dimensions. The police administrator is seeking neither navigators nor interior decorators. Selection tests now in general use by civil service commissions may prove effective in recruiting clerks and stenographers, but they are remote and ineffective in securing good, sound, human raw material for police work. The causes which underlie this condition consist in the fact that civil service control has been devised as a check upon the administrator, rather than as an aid to him in the performance of his duties. It is viewed as a means for curbing the coarser manifestations of political partisanship. Frequently, however, it fails even in this.

CONTROL BY CIVIL SERVICE COMMISSIONS

The police chief of one of the larger cities of the state admits that the civil service commission in his community is used for political purposes and that the best police applicants never lead the eligible list. In another city the ward leaders control the selection of police recruits and the places are parcelled out according to a fixed ratio for each ward. A commissioner of public safety states quite simply and frankly that "here, as elsewhere, it is a matter of 'arrangement' with the administration." The situation in one city has become so acute that the chief of police has been constrained officially to request the civil service commission to improve its methods of selection.

These are but illustrations of a condition which is generally recognized in police circles. The plain fact is that both civil service commissions and police administrators are appointed by and subject to the same municipal authority. If the city government is disposed to allow partisan considerations to run riot, that end can be secured about as easily with civil service control as without it. There is nowhere any one formula or statutory clause which will serve to prevent political manipulation.

Even in those instances where the spoils system has been actively combated civil service control has necessarily involved a division of responsibility which is fatal to lasting benefits from good administration. If the commission provides clerical misfits when the police administrator has asked for a quota of two-fisted guardians of law and order, it is the administrator, and not the civil service body, which must accept responsibility for the results. It is rare indeed that such a body is greatly concerned about the special qualifications of the applicants which it declares eligible for police service. The emphasis is placed upon the banishment of "favoritism."

It is time that these facts were squarely faced. It is time that we recognize that this divided responsibility has retarded police development by depriving police heads of a larger portion of their control of personnel. It is not within the bounds of reason to

expect a civil service commission to be as thoroughly familiar with the demands of police duty as is the police administrator. It *is* reasonable to require that the commission shall submit its plans and its tests of qualification for approval by the police authorities, and that the responsible administrative head be granted a larger discretion in selecting recruits and making promotions from an eligible list.

This proposal contemplates that the civil service commissions in subjecting applicants to tests of their qualifications for police work shall place the emphasis upon the fact of qualification and not upon the percentage grade to be assigned. The best that can be expected from such tests is that they will serve to eliminate those who are palpably unsuitable material. The business of final selection must be left in more experienced hands. If the professional police administrator proposed in an earlier section of this report is given unrestricted power to make his appointments from the eligible list as a whole, then the full limit of effective regulation will have been applied.

INDEPENDENT CIVIL SERVICE COMMISSION ONLY DEFENSE AGAINST POLITICS

BY H. W. MARSH

Secretary, New York Civil Service Reform Association

With Colonel Chandler's motives, the Civil Service Reform Association has the utmost sympathy. All patriotic and public-spirited citizens will support every honest effort to improve the administration of police systems in every community and any steps that may be taken to secure the appointment of police officers on the basis of merit and fitness will have the cordial support of the Association. But means of improving the methods of selection of police officials will not be found by engaging in unjustifiable criticism against a system, when in fact there is ample evidence to offset it. It is not correct to say that "tests of penmanship, spelling, arithmetical fundamentals, knowledge of geography and the like" seem to determine the relative standing of candidates for appointment to police forces. On the contrary, arithmetic has a weight of but one point in ten in one-half the test given for patrolmen in New York City. The remainder of this half of the test, which is called the mental test, is composed of these elements: citizenship, which is the candidate's personal record and history (two points); memory (two points); and government and elementary duties (five points). The memory test consists of requiring candidates to report a statement which is read to all candidates alike at the same moment. The memory statement in the last examination used for patrolmen in the New York City police department was taken from certain sections of the book of rules of the police department. The questions on government and elementary duties invariably bear upon the work of a policeman. Upon completion of all these elements of the mental test, candidates are required to satisfy a physical test which is given weight equal to that in the mental test in the final average. With the methods employed by the municipal civil service commission of the city of New York, we have in that city a monument to the merit system in the corps of men

employed on the police and fire forces. Police commissioners in New York City since the time of Theodore Roosevelt have almost universally praised the competitive examination system as the best known method for the selection of policemen.

The civil service examinations for patrolmen and officers in the police department generally, in the larger cities of the country, compare favorably with the examinations held by the New York city commission. Colonel Chandler's report, however valuable it may be in other respects, in the strictures which it places upon the value of the competitive methods of selecting persons for employment in the police forces of our cities, tends to create a wrong impression of the general value and the character of civil service tests for such positions. If these tests merely succeeded, as Colonel Chandler suggests they do, in checking "some of the coarser and more obvious forms of partisan manipulation" they would be justified. But they have done more than that. As has already been pointed out, when carefully and honestly administered, they secure the appointment of the persons best fitted for the work to be done.

MUST HAVE NON-POLITICAL POLICE

Experts on the problem of checking crime seem to agree that the main reliance must be placed upon the police and the efficiency with which the police operate. It is pointed out in a report recently made by Dr. Robinson, the secretary of a sub-committee of the National Crime Commission, as the result of an extended investigation of law enforcement in European countries, that a total of only 3 per cent of persons guilty of some 14,000 major felonies in two of the leading cities of Missouri have been found or had plead guilty. Dr. Robinson well states that to trust in the efficacy in punishing severely the 3 per cent while permitting the other 97 per cent to escape scott-free, is hardly evidence of the boasted efficiency or hard common sense of the American people. He points out that in Europe the people have built up *non-political* police forces that make it decidedly risky for an individual to engage in crime. What is needed, then, is something that will keep the administration of our police work free from politics. If civil service examinations will not, what will? The answer is obvious that civil service examinations will do it if properly handled.

About a year ago in the city of Indianapolis in fulfillment of a campaign pledge by Mayor Duvall, there was put into operation a set of civil service rules and regulations governing appointments and promotions in the police and fire departments which was intended, according to statements made by the mayor, as a means of checking political control of appointments and promotions in those departments. The men who were placed in control of the examination system, Mr. John F. White and Mr. Emerson W. Chaille, had the endorsement of the Indianapolis Chamber of Commerce and were well known in the city as men of the highest integrity and standing. A number of appointments to the police force were made as the result of examinations conducted under their supervision, and the people of the city, some of them reluctantly, agreed that here at last seemed to be a foothold for the merit system in Indianapolis. Cause for encouragement to the citizens of Indianapolis seems to have been short lived, however, for on September 2, last, Mayor Duvall announced the displacement of the then chief of police, Claude F. Johnson, and the appointment in utter disregard of his own civil service rules and regulations of Claude

M. Worley. Accompanying the announcement of the appointment of Mr. Worley in disregard of the civil service rules and regulations, came the announcement of the resignation of Messrs. Chaille and White as members of the civil service commission as a protest to the appointment of Worley. The Indianapolis *Star* in commenting upon the transaction in an editorial on September 3 states: "The public had been led to believe that ability and service were to be recognized to the exclusion of politics. The disappointment is keen now that it is made clear that political preferment again takes precedence."

MAYOR DUVALL'S BRAND OF CIVIL SERVICE

There may be in the Indianapolis situation the secret to some of the difficulty Colonel Chandler has in finding anything good to say about a civil service system. It is quite possible that Mayor Duvall of Indianapolis will seek to justify his arbitrary selection of a police chief on the ground that here is one position for which it is impracticable to conduct a competitive examination. In commenting on the resignation of Messrs. Chaille and White, the mayor is reported in the Indianapolis press as having said: "I'm glad White quit. We're going to have civil service all right, but we'll have it without a police civil service board. This making a fellow chin himself several times and run around the block before he's qualified to get on the police force seemed silly to me, anyway." No doubt it seemed silly to the mayor because it prevented the appointment of certain persons the mayor would have been glad to see on the force. Ability to run fast enough to catch a thief or a murderer and subdue him are apparently of secondary consideration with Mayor Duvall. But notice that he insists that "We're going to have civil service all right," but he's going to have a different brand.

Mayor Duvall has been convicted of violation of the Indiana corrupt practices act and, it is to be hoped, will not now be permitted to install his "brand" of civil service rules. It is such maladministration as that of Mayor Duvall in Indianapolis that very often misleads the public and casts discredit upon the merit system, a fundamentally sound and sane principle of government.

If the merit system is to be applied as a means of eliminating political considerations from appointments, it should be applied to the selection of a police chief as well as to a patrolman. Political consideration in the administration of police work cannot be eliminated in the rank and file unless it is also kept out of the authority at the top.

It may be true that if the appointing officer could be kept entirely free from political pressure and if he were willing and had the time to investigate the character, the ability and past record of applicants for appointment to the police force and if his sole purpose was to get the very best men possible, the result might be successful. Colonel Chandler himself, as superintendent of the New York state police force, was required by law to conduct his own examinations to test the qualifications of applicants for appointment. This he did with such success that we now have in New York state a very creditable body of men in our state police. But there are few appointing authorities who would be willing to take the time or who would provide adequate facilities to undertake the work of selection. Moreover, it would be wasteful and most unbusinesslike to expect such work of the head of department.

BOOKS AND PUBLICATIONS

FOOD COSTS AND CITY CONSUMERS. By Charles E. Artman. New York: Columbia University Press, 1926. Pp. 170.

Here is a marketing book with a type of approach differing somewhat from that of the books that have previously occupied the field. It is based on a careful statistical study of the distribution of fresh fruits and vegetables in the New York metropolitan area, conducted by the United States bureau of agricultural economics and the Port of New York Authority. The work was done under the supervision of Walter P. Hedden, one of the foremost market statisticians of the country.

It will be of particular value to people who are interested in statistical study and analysis of the marketing problem. It should also appeal strongly to the consumer who is interested in reducing the cost of the food section of the family budget. To the producer it has a more indirect appeal, but it does explain some things about marketing costs that have been puzzling to the farmer.

The author shows the importance of food costs in a great city like New York and why they are higher there than in other cities. His description of the distribution agencies is very good. A summary of important research projects of a similar nature in other cities is a valuable feature.

The most significant single thing that comes out of the analysis of all the data is the "standard retail sale" as a basis of costs. Quoting the author, "The prevailing size of consumer's purchase is found to determine, in large measure, the proportion of consumer's price absorbed in distribution." The retailer, in other words, must have about so much margin per sale. When jobbers' operations were studied a different basis of setting margins was found. The study also makes an analysis by types of stores. The chain stores are shown to operate on the average, with lower margins than unit stores. This analysis also shows what delivery and credit add to the cost of marketing.

A few pointed suggestions are given at the end, most important of which are combined buying by unit stores and larger and less frequent purchases by housewives. The book is a valuable contribution to the literature of marketing.

C. S. MCBRIDE.

CITY HEALTH ADMINISTRATION. By Carl E. McCombs, M.D. New York: The Macmillan Company, 1927. Pp. 524.

In the preface Dr. McCombs indicates as his objective in the preparation of his book on city health administration a work for the person "without professional training or experience, whether he is a teacher or student of government, a public official, or merely the 'man in the street.'" The book is therefore frankly elementary. However, it is not elementary in the sense that it is juvenile or incomplete.

It is elementary in that it gives much attention to the fundamentals of public health work. Problems of administration are developed in considerable detail, but the book stops short of the minutae of technical work. Great detail, especially technical detail, would not conform to the purpose of the work, nor would it seem desirable. Much is already available for the specialist who wants an exhaustive treatise on his specialty. The value of Dr. McComb's book lies in its comprehensive survey of the field and its discussion of the relationships and coördination of activities. Public health administration is a big subject, but the book covers it remarkably well.

The first chapters are devoted to a general review of health functions and current administrative practice. Early recognition is given to the division of public health work into measures for the prevention of disease and those for the cure of the sick. Chapter 2 develops the relationship of public health activities to the whole field of public welfare. It is concluded that the coördination of all health and welfare services in a single department of public welfare seems to be the ideal toward which municipal government is now progressing.

Proceeding to the broad relations between the preventive and curative health functions the ways in which these functions may be administered are described. Desirable and undesirable features of various plans of organization are presented, with numerous examples for illustration.

The remainder of the text is divided into two parts, one of which presents the detailed analysis of the organization and administration of sickness preventive functions, the other is devoted to sickness treatment functions. Thirteen chapters

are given to the former and six chapters to the latter.

Information contained in the book is as constructive and definite as the limitations imposed by the varying conditions in individual cities permit. For example, the inherent weaknesses of the board of health as an administrative unit are pointed out but, as many cities will probably have such boards for some time, standards for them are suggested. When functional organization is discussed actual organizations are described and improvements outlined. Specific programs of work and practical tests of efficiency are included, and salary schedules and personnel requirements are concretely treated. Of special interest are the discussions of expenditures and revenues, including the health budget and the handling of funds.

Dr. McCombs has made a valuable addition to the literature of public health, a contribution which fits into a special niche that was not adequately filled.

C. A. Howland.

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Report of Kern County, California. An Analysis of the Expenditures of the County for the Fiscal Year 1925–26. California Taxpayers' Association. Pp., 78.

This report brings together the results of a survey undertaken primarily to appraise the efficiency of the government of Kern county on the basis of an expenditure analysis showing unit costs of objects and services secured. Since approximately 66 per cent of the total expenditures are for educational purposes, a large section of the analysis relates to educational expenditures. Tables and graphic charts set forth a vast amount of detailed information.

Only a few of the factors and suggestions can be noted here. One of the conclusions drawn is that the costs of elementary education can be reduced by standardizing the teaching load and by consolidating the smaller schools. Very significant comparative data is presented on the cost of school supplies. Large savings in the purchase of school supplies can be effected by inaugurating county centralized purchasing as recently provided for by legislative act. Considerable light is thrown on transportation costs by the comparative data showing wide differences in these costs among the several districts. On the basis of this data it is the recommendation of the survey that commercial buses should be substituted for transportation service operated by the schools themselves. An interesting feature of this section of the report is the rating of the physical plants of the five high schools of the county on the basis of total scores allotted according to the Strayer and Engelhardt system of rating.

In the analysis of expenditures for general county purposes, the report recommends the following: a more logical arrangement of the county government, involving a partial reorganization of present functional groups; the setting up of a proper accounting system for capital outlays and depreciation accounts; the keeping of a general ledger which will include assets and liabilities that will enable the ready issuance of a consolidated balance sheet; the adoption of a coördinated county highway plan and the use of a carefully kept record of highway maintenance costs; the installation in the county recorder's office of recording by direct photography; the increasing of interest returns on the large and excessive treasury balances by investing surplus cash in bonds.

It is very evident from the contents of the report that Kern county, California, maintains a high standard of administrative efficiency. This is a valuable study for the citizens of the county and for the students of public administration everywhere. It contains useful suggestions looking toward the improvement of governmental reporting.

Martin L. Faust.

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Manual of Municipal Accounting. By Lloyd Morey, A.B., C.P.A. New York: John Wiley & Sons, Inc., 1927. Pp. ix, 187.

This book contains 181 pages of text, forms, and skeleton accounts, presented as a typical municipal accounting system by one who has had experience with the subject. With this limited space, it is by no means exhaustive of the different types of transactions that may occur in any one municipality and, we judge, is not intended to be so. Some would doubtless deny the verity and practicality of certain principles presented by the author, while others would, nevertheless, endorse them. We must admit that some of the space is utilized with what seem to us inconclusive remarks; and although there is a certain sequence to the arrangement of material, one could, however, wish that the interlocking of the different records had been more definitely presented.

In a field in which there is so little of mature practice or published material, one may be pardoned, we trust, for making comparisons with other representative publications on the same subject as to the method of treatment. In this respect, we may say that Mr. Morey's work is similar to Mr. Eggleston's *Municipal Accounting*, but the former is more applicable to the smaller municipality. As a basic, comprehensive analysis of the subject, it is not in the same class as such a work as Mr. Oakey's *Principles of Government Accounting and Reporting;* nor does it present the basis for accounting principle to such an extent as is done in even such a pioneer work as the Metz Fund *Handbook of Municipal Accounting*. Doubtless the author consciously chose the scope he has given to his work; and we cannot say there is not a need for this form of treatment, especially since there is comparatively so little published matter on this subject, and since an expanded treatment can only with difficulty be made easy to read.

On the whole, we think that this book should appreciably assist in the promotion of better practices of municipal accounting, and it is to be hoped that it will have a circulation sufficient for that purpose. This is said in spite of the fact that this reviewer also disagrees with, or questions some of the principles, interpretations, and procedures presented. For example, we cannot see that the "property accounts balance sheet" (page 56) contains pertinent information when presented in this form; that the interpretation represented by "funded deficits" (page 37) has any reality unless it is based upon some odd provision of law with which we are unacquainted and which the author does not make clear; or that "proprietary accounts" (page 4) would not under certain circumstances be convenient for the purpose of controlling treasury operations, even though not pertinent as information for budget making purposes. On the other hand, the author shows discriminating thought in avoiding fallacies that are often found in municipal accounting systems. For example, he segregates fund surpluses available for appropriation, and does not confuse them with any fictitious surplus resulting from capital assets; and he makes practical, real interpretations of "accrued expenses," "deferred expenses," "refunds of receipts," and "depreciation," as they apply to municipal financing.

It is refreshing, too, to find that he stresses "thoroughness rather than simplicity" in an accounting system, in spite of a rather general indulgence by some towards inadequate accounting on the part of municipal accounting officers and employees who are untrained for their posts. Mr. Morey evidently considers that such employees are not to be excused from a training in accounting, and that the remedy lies in selecting employees with the necessary qualifications. If this is his view, we wish to endorse it.

WILLIAM WATSON.

CITY OF MILWAUKEE. REPORT OF THE COMMON COUNCIL OF THE ACTIVITIES OF THE CITY DEPARTMENTS, BOARDS AND COMMISSIONS FOR 1926. Pp. 93. Compiled and edited by Frederick N. MacMillin, Municipal Reference Librarian.

Here is a municipal report ranking among the best of the year. The length and its irregular size are its chief defects; however, one is inclined partly to overlook these in view of the many good qualities. Had it been printed on the usual report size—7″ x 9″ instead of 8″ x 11″—it would have consumed nearly 150 pages, thus far exceeding the customary length of such a report intended for extensive reading.

It contains an excellent table of contents and the reading material is divided into short paragraphs, appropriately headed in bold type to expedite finding. Another excellent feature is the short statement of organization and duties preceding the report of the various governmental agencies.

Over thirty well-selected photographs "break" the reading material and add to the interest of the report. Some graphs and charts could have been used to advantage as a substitute for much of the printed material, thereby considerably shortening its length.

The report is well balanced in dealing with the various activities. The division of the material follows: common council, 5 pages; executive and administrative, 5; public works and public utilities, 12; public safety, 6; health, 10; city planning, 3; public welfare, 5; education, 10; and the statistical material for all departments is placed in an appendix of 21 pages,—an excellent plan in a long report. This is an attractive, complete, properly balanced and exceptionally well-edited report.

CLARENCE E. RIDLEY.

JUDICIAL DECISIONS

EDITED BY C. W. TOOKE

Professor of Law, Georgetown University

Parks—Purposes for Which Park Lands May Be Leased.—Lands dedicated for public parks are held by municipalities charged with the public trust which limits their use to park purposes. The concept of a park purpose is much narrower than that of a public purpose, but is subject to be enlarged with changed social conditions or by legislative declaration of state policy. Thus in recent years the use of parks for golf and other athletic games has been generally sanctioned and in some instances the legislature has authorized uses which otherwise would have been forbidden as not for a park or even for a public purpose. In *Slavich* v. *Hamilton*, 257 Pac. 60, the supreme court of California had before it on appeal an application for a writ of mandate to compel the chairman of the board of supervisors of the county of Alameda to execute a lease of certain park lands from the city of Oakland for the erection of a veterans' memorial hall, as authorized and directed by the board. The defendant set up that such a use would be inconsistent with the purpose to which the land was dedicated and that therefore the city which had authorized the lease on its part was without authority to enter into the contract.

While under its home-rule charter the city evidently had empowered itself to use its public parks for any kind of municipal buildings, the court refused to enter into the question whether such a provision would be upheld as against a dedication of lands for park purposes by a private individual as in the case before it. It placed its decision that the city had authority to make the lease on the broad ground that the erection of a veterans' memorial building to be used exclusively for meetings of patriotic associations comes within the legal definition of a park purpose as clearly as an art gallery, museum, botanical conservatory or more formal and less useful monuments.

On July 28, Justice Gibbs of the supreme court of New York, in the case of *Tobin* v. *Hennessy*, 223 N. Y. Sup. 618, refused to issue an injunction *pendente lite* to restrain the commissioner of parks of the Borough of the Bronx from issuing permits to private individuals for the use of portions of Pelham Bay Park for camping or residential purposes Through the course of ten years, the custom of issuing such annual permits has been growing till now there are erected upwards of 650 bungalow camps with a summer population of approximately 3,000 people on the park property. In May of this year, Justice Mitchell in an action between the same parties had issued such an injunction, stating in his opinion that the park was one of the beauty spots of the city, made so by God, and should be kept free and open for the unrestricted use of all the people. Soon after this decision, the municipal assembly under the home-rule provisions of the state constitution adopted a local law authorizing the issuance of such licenses and the collection of rent therefor until such time as that portion of the park "shall be actually laid out, regulated, beautified and utilized for the purpose of the park under an appropriation therefor made in pursuance of law." Justice Gibbs upholds the local law as a valid exercise of the city's power to lease its park lands that are undeveloped to private individuals. In these New York cases, it is to be noted, the question of the dedication of lands for park purposes was not involved, the property so far as the opinions indicate, having been purchased by the city or acquired by condemnation.

✻

Zoning—Reasonableness of Regulations Affecting Use.—In *Village of University Heights* v. *Cleveland Jewish Orphans' Home*, reported in 20 Fed. (2d) 743, the circuit court of appeals of the sixth circuit had before it the constitutionality of a general zoning ordinance which in effect would exclude the petitioner from constructing buildings for use as an orphanage on some thirty acres of land in class U 1 district, wherein buildings for orphanages were restricted to (a) lots already devoted to such use; (b) lots opposite a block front where such a building is already located; (c) lots adjacent to or opposite a public park or playground; (d) lots adjacent to or opposite a class U 2 or U 3 district; (e) on a lot approved by the city planning and zoning commission for such purpose. The land in question did

not meet any of the first four requirements and the commission found that the public welfare and convenience would not be served by the intended use, although the buildings to be erected complied with all requirements as to height, area, construction and set-back lines.

In affirming a judgment of the lower court, enjoining the village from enforcing the ordinance as against the petitioner, the court held that these provisions of the ordinance were clearly arbitrary and unreasonable. "The question," said the court, "is whether the proposed use is so different in character from concededly legitimate uses as to bring it within the police power of the municipality." Would a home for orphan children consisting of separate cottages and under careful supervision affect the interests of the community more deleteriously than a private school or a hospital? While the court recognized the validity of excluding factories, business houses, shops and even apartment buildings from certain designated districts, it states that it is unwilling to hold that the village has power to prohibit the use of cottages for this purpose.

It is to be noted that the restriction in question was not applicable to the entire district and the exceptions were so broad as to make doubtful its validity if applied even to apartment houses. The effect upon the public interest of withdrawing the land in question from taxation, of requiring the enlargement of school facilities in that section of the city and of bringing into the local school a majority of children of a single race or creed, findings upon which the commission based its action, would also obtain if the orphanage were located anywhere else in the village. The decision is a salutary one in pointing out the limits of municipal control under zoning ordinances and in defining the scope of "reasonable" regulation.

Torts—New York Towns Held Liable for Negligence under Motor Vehicle Law.—In *Jones* v. *Town of Clarkson* (223 N. Y. S. 611), Justice Rodenbeck, in denying a motion to dismiss the complaint, held that towns in New York are liable for negligence of an employee in the operation of a motor truck upon the public highway in connection with a duty imposed by law. The general rule is that towns and counties as involuntary agencies of the state are not liable to persons injured by the negligent acts of their employees unless liability be imposed by statute, a rule based upon the immunity of the sovereign and carried over to include the agencies created by it. This doctrine as to quasi-municipal corporations is still followed by the courts in all its integrity, although the state and its political subdivisions have in some instances been subjected by statute to liability quite as extensive as are private corporations.

The court predicates the liability of a town in the instant case upon the provision of the Motor Vehicle Law, which imposes a liability for negligence upon "every owner" of a motor vehicle under certain circumstances and holds that this language is sufficiently specific as to include a town even when engaged in the public governmental duty imposed upon it of caring for the state highways. In support of this conclusion, the learned justice says:

> In view of the tendency to relax the rule of exemption of the sovereign and its political creations from liability, it ought not to be necessary to point to a statute imposing a liability upon towns by name, where the statute is broad enough to cover such a political organization. The reason for the rule ought not to prevail over the justice of the case. The language of a statute should not be strained by construction from its obvious meaning to sustain an ancient theory of sovereign liability. If it is necessary to protect the state and its political divisions against liability for torts, it is equally necessary to protect innocent persons from injuries through the negligence of public officers, servants, and agents. The use of the motor vehicle has become so general that the legislature deemed it necessary to enact that "every owner" should be liable for injuries occasioned through the negligence of one who is permitted to drive his car upon the public highway. Why should not the liability extend to a town, which is the owner of a truck? Is a town to be permitted to send out a truck upon the public highway, operated by an incompetent driver, and injure persons through his negligence, without recourse against it?

The broad application of the doctrine enumerated by the court would include fixing the liability of cities for negligence in the operation of fire trucks, and in those states as Ohio where the collection of garbage and Pennsylvania where the cleaning of streets are denominated governmental functions as to liability for tort[1] a similar statute construed in the same way would overcome the common law immunity which now obtains. It may well be questioned whether the legislature intended by its statute to go so far as the court indicates. But the decision seems to do no violence to the classical canons of statu-

[1] *Gorman* v. *Cleveland*, Ohio Law Bulletin 477 (May, 1927); *Sciblia* v. *Philadelphia*, 279 Pa. 124, 124 Atl. 273.

tory construction, and no one can gainsay that the effect of the adoption by the higher courts of this broader construction of statutes imposing liability for tort to include the agencies of the state would be most salutary in bringing the law into closer accord with the *mores* of our modern society. It may be that Justice Rodenbeck's decision in this case will lead us a step closer to the doctrine of the English courts that it is an implied term of the imposition of a public duty upon a governmental agency with full power to carry it into effect that the agency shall be responsive to action in tort as are corporations organized for private gain.

✻

Taxation—Powers of Home-Rule Cities.—The supreme court of Missouri in *Siemens* v. *Shreeve*, 296 S. W. 415, had before it the question of the control that could be exercised by statute over the taxing powers of a home-rule city. The charter of Kansas City framed in 1908 by the people under the authority of the home-rule provisions of the constitution of 1875 gave the city the power by ordinance to license, tax and regulate all trades, occupations, professions, etc., whether enumerated in the charter or not, to classify them and fix the license fees to be paid. The petitioner was tried and convicted of practicing the profession of architecture without first obtaining a license, and sued out a writ of *habeas corpus*, claiming that the ordinance was invalid in that the charter did not include architects in its enumeration in view of a statute, section 8702 R. S. 1919, which provides that "No municipal corporation in this state shall have power to impose a license tax upon any business avocation, pursuit or calling, unless such business avocation, pursuit or calling is specially named as taxable in the charter of such municipal corporation, or unless such power is conferred by statute."

In discharging the petitioner, the court holds that the statement made by the supreme court of the United States to the effect that a home-rule city in Missouri is an *imperium in imperio* (*St. Louis* v. *Western Union Tel. Co.*, 149 U. S. 465) is true only within prescribed limits. The constitution of the state declares that the home-rule charters shall be "consistent with and subject to the constitution and laws of the state." To treat the charter, therefore, as beyond the reach of the laws of the state would be to nullify the express constitutional provision. Further, the constitution provides (Sec. 1, Art. X) that the "taxing power may be exercised by the general assembly for state purposes and by counties and other municipal corporations, under authority granted to them by the general assembly, for county and other corporate purposes." As taxation, whether exercised directly by the state or by municipal corporations, for local revenues, is fundamentally a state function the court concludes that the statute controls as against the provision of the charter. The case disposes of any doubt that may have been left on this point by the earlier Missouri decisions.

✻

Organization—When Subject to Test by Certiorari.—In *Brown* v. *Long Beach*, 258 Pac. 693, decided by the district court of appeals of the Second California District, August 4, the court reversed the order of the lower court which refused to grant a writ of *certiorari* to review the regularity of the reorganization of the city of Long Beach. The city following the statutory procedure annexed a large non-contiguous area some thirty-three miles distant by including a connecting shoe-string strip one hundred feet wide, which action the petitioner sought to review and have set aside upon the ground that it violated the requirement of the statute which conferred the power to annex only contiguous territory. An application to the attorney general for a writ of *quo warranto* had previously been refused. The importance of the case as affecting similar annexations by other cities in California caused the city of Los Angeles to appeal and file briefs as an *amicus curiae*.

In holding that the validity of the proceedings taken by the city may be reviewed by *certiorari*, the court based its conclusion upon the finding that under the facts stated in the petition the action taken was null and void and resulted in the organization of neither a *de jure* nor a *de facto* corporation. It holds that a *de facto* corporation cannot come into existence unless the organizers act in good faith and that the case of the shoe-string strip devise was but a subterfuge to circumvent the statute. If the proceedings created as to the organized territory a *de facto* corporation, it is well settled that its existence will not be subject to collateral attack but can be questioned only by *quo warranto* at the instance of the state (*Coe* v. *Los Angeles*, 42 Cal. App. 479, 183 Pac. 822).

For reasons of public policy the courts in their

discretion have materially limited the right of the state itself to maintain *quo warranto* proceedings after rights and liabilities have accrued. Even an organization under an unconstitutional statute has been sustained as against the action of the state because of the confusion that would otherwise result.[1] As the issue of fraud is a subject of inquiry in *quo warranto* proceedings (*Jackson* v. *Harrington*, 160 Mich. 550; 125 N. W. 66) it would seem that the court has gone somewhat afield in leaving the vital question of good faith to be reviewed by *certiorari*. Although the decision may be supported on strictly logical grounds, it appears to do violence to the principles of sound public policy which would dictate that the regularity of the organization of municipal corporations should be tested only by the state itself in an action *quo warranto*.

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Remedies—Mandamus to Compel Payment of Judgment.—The limitations upon the right of a judgment creditor to compel the payment of a judgment against a municipality by mandamus is illustrated in *Shamrock Towing Co.* v. *City of New York*, 20 Fed. (2d) 444. The applicant obtained a judgment in admiralty against a private corporation and the city, one-half to be paid by each and in default of collection from either then the other defendant to be subject to pay the total judgment. An execution issued against the private corporation was returned unsatisfied and a certified copy thereof and of the return was served upon the proper officer of the city. Upon refusal of the city to pay, the libellant appealed for a writ of mandamus.

The district court refused to grant the writ on the ground that the libellant had not exhausted his other legal remedies. By section 264 of the Greater New York Charter, an execution may be issued on a judgment against the city after ten days notice in writing if the recovery of the judgment has been given to the city comptroller. Although none of the property of the city held for a public purpose is subject to execution, such property as it holds in a private capacity and not charged with a public trust may be so attached. Until such execution is issued and returned unsatisfied, an application for a writ of mandamus to the officers of the city to compel payment will be refused.

Thus, if there is a remedy by action for a salary or pension, mandamus cannot be granted till the legal remedy is exhausted (*Bushell* v. *Devir*, Mass., July 1, 1927, 157 N. E. 529). Upon the same ground it has been held in numerous recent cases that the writ will not be granted to compel the issuing of a building permit, unless an appeal from the order of the officer denying the application is first taken to the board of adjustment or to such other board as may be authorized by statute or ordinance to hear such an appeal (*Raskind* v. *Dowling*, N. J., July 9, 1927, 138 Atl. 103).

[1] *Coast Co.* v. *Spring Lake*, 56 N. J. Eq. 615; 36 Atl. 21. *Attorney General* v. *Methuen*, 236 Mass. 564; 129 N. E. 662. See also, *Commonwealth* v. *Pottsville*, 246 Pa. 468; 92 Atl. 639.

PUBLIC UTILITIES

EDITED BY JOHN BAUER

Director, American Public Utilities Bureau

The St. Louis & O'Fallon Appeal.—On October 5 the appeal in the St. Louis & O'Fallon recapture case was heard in the United States district court at St. Louis, Mo. This case has been discussed in this Department,[1] also in a special article[2] in the REVIEW. The principal issue is, we believe, of enormous public interest. The case involves the recapture of excess earnings under the provisions of the 1920 Transportation Act. The interstate commerce commission computed the excess on the basis of its valuation under the 1913 Valuation Act, and as modified by subsequent additions, retirements and depreciation. To a large extent, this represents the equivalent of "prudent investment," with, however, substantial adjustment to higher present level of prices. The company claims the legal right to have the excess determined on the basis of reproduction cost.

The chief question before the court is the proper basis of valuation for the purposes of the 1920 Valuation Act. The commission considers the principles and methods adopted in its decision as necessary to carry out the plan of regulation established by congress. They would furnish not only "fair value" upon a reasonable basis, but would provide a financially sound system of regulation, both safeguarding the returns properly expected by the investors and attracting new capital as needed in the interest of transportation for the country at large. They are essential, moreover, to the reasonable administration of the statute.

If reproduction cost were taken as the basis of railway rate-making and recapture of excess earnings, the immediate valuations would be unreasonable and would place an undue burden upon the commerce of the country. For the future, reproduction cost would be financially unsound, particularly because two-thirds of the normal railroad investment is represented by bonds with fixed contractual returns, and only one-third stock with a possible variable return according to change in prices. Hence upon the reproduction cost basis the return to the stockholders during rising prices would increase much more rapidly than prices, and during the reverse course would diminish much more rapidly than the fall in prices. There would thus be speculation during one period, and impairment of credit and financial disorganization during another. Moreover, the work of regulation would be rendered extremely difficult and would practically defeat the purpose of recapture.

It is reported that over fifty large railroads of the country are joining the St. Louis & O'Fallon Company in the appeal to support reproduction cost. Where, we ask, is there a corresponding public support of the interstate commerce commission? All cities, state commissions and other public bodies should join with the commission in seeking the establishment of a fair, sound and workable basis of regulation for the future. This case promises to be the decisive battle between reproduction cost and prudent investment as the fundamental legal basis of rate-making, and will finally be determined by the Supreme Court of the United States.

✠

Drive Against Government Ownership.—Reports have gone out from the recent Cleveland meeting of public utility associations that a campaign would be launched against public ownership. According to press reports this drive will be carried to congress, particularly against the proposed Boulder Dam and Muscle Shoals hydro-electric projects; presumably also against the Niagara-St. Lawrence development in New York sponsored by Governor Smith. It is to be, however, a program of "education" for legislators, public officials and others capable of education; not the "lobbying" of former times.

The proposal based upon the press summaries of the speeches appears a bit ridiculous and, it seems, would have the opposite effect contemplated. To many sincere and intelligent people it will furnish a strong reason for government ownership. The view expressed repeatedly in this Department is that neither government nor private ownership and operation can be accepted as a matter of doctrinal faith, and as guiding principle in every instance. The question of

[1] May, 1927. [2] July, 1927.

what constitutes best policy is to be answered in terms of fundamental economic and technological factors, and of particular financial and corporate circumstances in individual cases. This requires painstaking investigation and study, and intellectually untrammelled action. When leading public utility interests whose aggregate investments reach close to $20,000,000 announce propaganda supported by all the legal and technical ability that vast wealth can commandeer, it would seem to be high time for clarion calls to mobilize all public interests and intelligent opinion in favor of unbiased policy,—if the proposal in itself were not absurd and were not certain to work a boomerang upon its proponents.

One may ask, "Why organize the special propaganda at this time when everything seems to have been going very well indeed for the utilities, especially electric light and power?" Is the answer perhaps that many successful utilities are top-heavy and may be toppled over by a few successful public enterprises? Possibly the far-flung consolidations of electric properties during recent years through holding company systems, based upon reproduction cost and other over-capitalization, would be endangered by lower rates which would soon become available to the public. No one who has an intelligent interest in reasonable development, with due regard for investors as well as consumers, also for industry depending upon adequate service and reasonable rates, can have witnessed some of the grotesque consolidations of recent years without grave misgivings over the financial results when inevitable rate reductions will be put into effect in line with present-day available costs under modern methods of production and distribution. Three or four successful public enterprises would doubtless hasten the collapse which in many cases must follow upon the capitalization based not only upon reproduction cost, but also the earning power at rates under old methods of production and distribution, and the savings available under modern conditions. The consolidations doubtless have greatly advanced actual economy of operation, but too many have capitalized unattainable expectations and are endangered by public enterprises capitalized only at present-day cost of plant and equipment.

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Cost of Railroad Financing.—The interstate commerce commission in a decision and order on September 9, 1927, moved the ball along toward better standards of railroad and public utility financing. It authorized the New York, New Haven & Hartford Railroad Company to issue $49,036,700 par value cumulative 7 per cent preferred stock to be sold at no less than par. This may subsequently be converted share for share into common stock. The proceeds of the funds were to be used substantially for the payment of 6 per cent notes held by the United States Government in settlement of obligations in connection with federal operation.

The order thus permits directly the substitution of 7 per cent preferred cumulative stock with dividends paid if earned, for 6 per cent notes with fixed interest obligations. The charges ahead of the common stock are thus increased by $490,367. Its justification is based upon the readjustment of the financial structure; the fixed interest securities are reduced from 67 per cent to 57 per cent of the total capitalization, while the stock without fixed interest is increased from 33 per cent to 43 per cent. This readjustment in itself should improve the credit of the company and enable it subsequently to do its financing on more favorable terms.

This objective was duly approved by the commission notwithstanding the greater demands upon income ahead of the common stock. Besides the increase of 1 per cent of return required in the readjustment of securities outstanding, the company had entered into an underwriting agreement with J. P. Morgan & Company providing for a 2 per cent commission, aggregating $980,734 on the entire issue. This agreement was disallowed by the commission. It did not approve the necessity of this payment for the services rendered, especially in view of the high return and attractive conditions of the preferred stock issue. It pointed out that the subscription rights were valuable to the existing stockholders, so that a considerable amount of immediate cash could be realized for the purpose of liquidating the government note by October 15. For the rest of the cash needed there should be no difficulty in making arrangements with banks under provisions for partial payments at interest dates.

In a concurring opinion, Commissioner Woodlock pointed out that the disallowance of the underwriting fees is based upon the commission's duty to effect the maximum enonomy in raising such new capital as may be found proper and necessary. "Whatever method of raising this capital would best accomplish this result is the

method which in my judgment is indicated by the law for approval by this commission." This principle sets the proper standard and will, if properly carried out, protect the public interest against financial exploitation in the huge amounts of future railway financing.

The same principle should be embodied in public utility statutes of the states. All public utility financing, together with all the arrangements with banking syndicates, should be carefully scrutinized by the commissions. The cost of financing should be kept at a minimum, consistent with the actual and reasonable requirements of utility developments. No arrangements should be approved which impose a higher return and greater cost of financing than is necessary to obtain the capital or readjustment of securities in the interest of public service.

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Cleveland Municipal Utilities in 1926.—Howell Wright, director of the department of public utilities, Cleveland, Ohio, recently issued two annual reports to the city manager covering the operations and developments of the utilities owned and operated by the city. The first covers the division of light and power and the second the division of water and heat. The first is of particular public interest because Cleveland is one of the few large cities to own and operate an electric plant on a regular commercial basis in competition with a private company which has franchises over the greater part of the city.

In comparing the municipal plant with the properties of the Cleveland Electric Illuminating Company we face first the fact that the scope and operation of the municipal plant are much more limited than those of the company. The total generating capacity is only 50,000 kw., with an output of 165,000,000 kw.h. in 1926, which is small compared with the company's principal plant of 288,000 kw., a second plant of 70,000 kw., and total output of 1,118,000,000 kw.h. in 1926. In view of the difference in size, the company should have a large margin of advantage over the municipal plant. It can use the largest and most efficient generating units, has a much broader spread for overheads, and ought to have a better load factor.

Actually the municipal results compare favorably with the company's. The figures, however, are not comparable in all respects as available to the writer. The most important comparison appears in the relative operating expenses, including actual maintenance and operation. Without including depreciation, the operating expenses in 1926 per kw.h. generated were 0.93 cents for the municipal plant, and 1.06 cents for the company. The provision for depreciation by the municipal plant seems to be the more liberal; it has an accrued reserve of 30 per cent to the total plant cost, compared with only 14 per cent on the part of the company. The plant investment as reported amounts in each case to about $4.00 per $1.00 of revenue; the output was 13.1 kw.h. per $1.00 of investment in the municipal plant compared with 12.4 kw.h. for the company. On the basis of present conditions, therefore, the municipal plant appears to be in a favorable competitive condition. Whether this can be maintained indefinitely for the future is, of course, a different question which can be answered only by experience.

The operating results are briefly summarized. The operating revenues amounted to $3,110,-301.77; the total operating expenses, including depreciation, were $2,150,909.42, leaving a net operating income of $959,392.35. There was miscellaneous non-operating income $139,134.37; the interest and various income deductions were $387,448.60, leaving a net income of $711,078.12. This compares with $582,947.44 in 1925; $573,-916.06 in 1924; $417,642.64 in 1923, and $223,-292.91 in 1922. These are figures for net surplus after the payment of all actual costs incurred, including interest on bonds outstanding. The department is required to set up an amount for taxes on the same general basis upon which the company is required to pay. The total of taxes accrued for 1926 is thus $357,467.33, which is reserved and not actually paid; it is really a special surplus account. After the deduction of taxes, the remaining income is $353,610.79; net surplus after all charges including operating expenses, depreciation, taxes, rentals and interest on the investment.

Perhaps the most important point in connection with the municipal plant has been its influence upon the rates charged, especially for commercial and domestic lighting. The maximum rates are five cents per kw.h., and have been applied also by the company. The existence of the municipal plant, with its successful operation, has doubtless obtained for the ordinary lighting consumer at least a two cent lower rate than would prevail otherwise. Cleveland is the only city of its size with a five cent general light-

ing rate; seven cents is generally the lowest rate paid in cities of the same class. The saving to the consumers supplied by the company is probably greater than the total operating expenses incurred by the municipal plant. The latter would thus justify itself even if it were operated at a complete loss, provided that the company is able actually to furnish adequate service and earn a fair return on its property under the existing rates,—and it appears to be doing very well, since it has added substantially to its reserves and surplus during recent years and has been paying 10 per cent dividends on its common stock.

As to the division of water and heat, the results do not stand out as satisfactorily as for light and power. Extensive improvements have been made in recent years, and the revenue consumption of water has apparently not come up to the available plant capacity. The division has only recently installed a satisfactory cost system and is awaiting the results before attempting any financial readjustments. It is expecting, however, to put into effect a general increase in rates. This will apply not only to the city of Cleveland but to about thirty-five suburban municipalities which are served by the city. The intention is to place the water division on a self-sustaining basis in exactly the same way as the division of light and power.

Emergency Fare Increase Denied.—On September 20 the Maryland public service commission refused to grant an *emergency* increase in fare to the United Railways and Electric Company of Baltimore. The case involves an interesting issue which has been briefly summarized by Thomas J. Tingley, people's counsel, opposing the company's petition.

It was the contention of the Railways Company that its failure to earn a compensatory rate of return on its property from 1920 to date, coupled with a decline in revenue passengers and passenger revenue for each month except January of this year under the figures for the same months of 1926, constituted an "emergency" entitling the company to summary rate relief pending the determination of its application for a permanent ten-cent fare. It was the contention of the opponents to the application that no emergency existed and that emergency relief should be granted only where the continuation of service or the company's control of its property or the public interest were jeopardized. It was admitted by the president of the applicant company that it was not threatened with insolvency during the two or three months period before the final decision and that it could meet its obligations maturing during the period; that maintenance and operating expenses were being earned; but that the fact that dividends were not being earned threatened the company's credit position.

People's counsel and other opponents of the temporary increase contended that Chapter 335 of the Acts of 1927 was controlling and did not authorize temporary relief in such a situation, but only when the public interest or the provision of adequate and efficient service or the preservation of property required the relief. They further contended that similar provisions as to public interest in the statutes of other states were uniformly construed as applicable only to rate decreases, that no proof had been produced that the service of the company was threatened, and the preservation of property meant the preservation of the company's physical property and not protection against confiscation. As to this latter point, they contended that not only had the courts and commissions of other states declined to hold that preservation of property meant assurance of a fair return but that the courts had held orders of commissions so construing similar language to be unlawful and unreasonable. The order of the commission found that no emergency relief was necessary in the public interest or for the purpose of providing adequate and efficient service or for the preservation of property.

GOVERNMENTAL RESEARCH CONFERENCE NOTES

EDITED BY RUSSELL FORBES

Boston Finance Commission.—Since September 15 the commission has issued reports on: expenditures for public celebrations since 1912 and comparative analysis of tax rate for 1926 and 1927. It has continued the preliminary study in connection with proposed survey of the Boston public school system, under the auspices of the department of education, Harvard University.

⚜

California Taxpayers' Association.—Following a request by the city council of Santa Paula, the Santa Paula City Committee of the California Taxpayers' Association was formed. This committee, immediately after its organization, undertook a comprehensive study of local conditions, with the idea of preparing a plan which would provide for the future needs of the community.

This plan, which is now complete, indicates that the city of Santa Paula needs storm drains, flood protection, sewers, a new city hall, paving, and several other improvements. The report analyzes the entire problem and considers the several requirements in accordance with their relative importance and necessity. The recommendations include a ten-year financial program. In addition to covering needs of the municipality, consideration is also given to the elementary and high school districts.

⚜

Citizens' Research Institute of Canada.—The Institute has compiled data on the total amount of taxes levied by all the governments in Canada, —dominion, provincial and municipal, including boards of education, counties, townships, etc.,— and has issued a report based thereon entitled, "What Price Government?" This report deals with the relation between taxation and total "net" production. It also gives the relation of local taxation, *i.e.*, provincial and municipal, to the net production in each province. The trend of taxation in Canada during the last few years is also shown.

A study is being made of the amount of taxes levied in Canada, Australia, Great Britain and the United States by all governmental authorities. It is hoped to be able to show, at least in a general way, the sources from which governments of a corresponding nature in the respective countries derive their revenues and the relative amounts derived from the most productive taxes. A report based on this subject will be issued in October or November.

⚜

Des Moines Bureau of Municipal Research.—The Des Moines Bureau of Municipal Research recently invited the members of the four taxing bodies of the city and county to a luncheon meeting for the purpose of urging the county to hold down the 1928 tax levies. Data were presented showing the tax burden on numerous business and residential properties and comparing various local tax factors with those of other competing cities. Influenced by the evident desire on the part of representative citizens to hold down taxes, local taxing bodies have held their 1928 tax levies to a point only slightly in excess of the 1927 levy and under that of 1926.

The Bureau, at the tax budget hearing, formally objected to the 1928 tax levy certified by the Polk county public hospital trustees. The objection maintained that the levy was defective in certain legal respects and that the large increase required was unjustified in view of present business conditions. The levy was later decreased.

The Bureau recently assisted the county supervisors and county treasurer in straightening out a complicated situation resulting from the erroneous issuance of old county bridge bonds, payable only from property outside the city limits, as county funding bonds payable from all taxable property in the county. Thus city property owners have been paying off bonds not chargeable to their property. This came about a number of years ago by the printing of bonds as funding bonds which were authorized as bridge bonds.

The Bureau has employed counsel to obtain a test ruling from the courts as to whether or not the clerk of courts is entitled to retain fees as a

member of the county insane commission. The state law is not clear on the subject. There have been conflicting rulings by different attorney generals. If the court decides the clerk is entitled to retain these fees, it will open the way for collection by clerks of court in all Iowa counties of large amounts accruing since 1924.

✻

Taxpayers' League of St. Louis County, Inc. (Duluth).—The grand jury met at Virginia, Minn., on September 6 to 10. All members of the League staff were called as witnesses. Assistance was rendered the county attorney by the staff in the preparation of evidence and in securing witnesses relative to affairs in the sixth county road district. The grand jury indicted one foreman on two counts—"perjury" and "presenting false claims"—and the trial will take place sometime in the near future.

A very fine report was made by the grand jury recommending to the district judges that a committee of citizens be appointed to continue the investigation of county affairs, and to supervise a general survey of all county offices and activities.

The grand jury reported that conditions in St. Louis county were "deplorable," and in effect substantiated all charges of waste and extravagance made by the League in its recent bulletins. The report was published by the League as Bulletin No. 74.

Work on investigating county affairs has continued. The effectiveness of this work is demonstrated by the reduction made in the last three months in road expenditures. During the first six months of the year the expenditures averaged about $50,000 per month more than the expenditures for the same months in 1925 and 1926. Since the beginning of the League's publicity program, road expenditures have been reduced from $30,000 to $90,000 per month below the figures for the same months in 1925 and 1926.

The classification and standardization of positions in the library service has been completed, and approved and accepted by the civil service commission. It is now before the city council for final adoption.

The city budget for 1928 has been analyzed and the requests reviewed with most of the city commissioners. A recommended budget was worked up and presented to the commissioner of finance for his consideration. Next year's budget must be given careful consideration if the tax rate is not to be unduly increased. An analysis of next year's city budget has been prepared for publication, and is now in the hands of the printer. Such budget estimates as have so far been prepared by the various county offices have been reviewed.

Considerable work has been done with the fifth district commissioner in preparing his request for appropriations. This work is following the principles recommended by C. E. Rightor of the Detroit Bureau of Governmental Research. Several other commissioners have asked the League to assist in improving the accounting system in their districts.

A report has been prepared covering the taxation situation in the city of Duluth, the board of education and the county, and contains certain recommended legislation. This report was presented in October to the legislative interim committee on local taxation.

The survey of the water and light department is now in progress. For this work the services of C. E. Rightor of Detroit have been retained.

✻

Fall River, Massachusetts, Taxpayers' Association.—The Taxpayers' Association of Fall River, Mass., is the latest addition to the growing list of research organizations. Offices of the Association were opened at 54 Buffington Building in September when Howard G. Fishack, a former member of the staff of the Detroit Bureau of Governmental Research and for the past three years executive secretary of the Grosse Pointe (Mich.) Citizens' Association, was employed as director.

The need for a citizens' organization in Fall River has been apparent for some time past. A meeting of all interested parties was held under the auspices of the Chamber of Commerce in January, 1927. Shortly after the initial meeting, Gaylord C. Cummin was retained to complete the organization and to conduct a preliminary study that would point out immediate problems confronting Fall River. His work resulted in revision and improvement of the city's budget for the present year as well as a general study of present administrative policies and methods.

✻

Finance Committee, Town of Harrison, New York.—Upon the recommendation of the Finance Committee, the town board of Harrison has

entered a contract with the Manufacturer's Appraisal Company of Philadelphia to make an appraisal of all land and buildings and to prepare a new set of assessment maps. The present confusing and complicated system of number lots and blocks will be replaced by a much simpler plan. The study is now in progress and will be completed within three months.

✻

Kansas City, Kansas, Bureau of Research.—The Bureau has made a study of the teachers' retirement system which has been proposed in accordance with the state enabling act applying to cities of the first class. In communications to the board of education the Bureau has called attention to a legal point which it believes would cause embarrassment and has also stressed the need of employing a consulting actuary to assist the board in developing the system.

A report on the city's budget procedure is almost completed. The Bureau is also making a field and office study of all city departments. This project will require several months' work.

✻

Kansas City Public Service Institute.—The Kansas City Public Service Institute has the following principal activities under way at present:

County Welfare.—A study of the welfare activities of the county government has been under way for several months. This study includes all of the county welfare institutions, as well as the activities of the juvenile court, probation department, and other miscellaneous activities. The report will be completed shortly.

Water Department.—In an effort to determine the present and future needs of the water department, an analysis has been made of the expenditures of the department for a number of years past; the unit cost; the water rates; the adequacy of the present plant; necessary additions, etc. A new water schedule has been tentatively suggested by the department to provide funds for expansion. In conjunction, some bond issues are suggested.

It has been found that a wide variation exists in the profit or loss at which water is provided to consumers under various rate classes. Very small and very large consumers are now being served at less than cost, while consumers between these classes are served at varying profits. The proposed schedule would, to a considerable extent, eliminate the inequalities.

Special Assessments.—For several months the Institute has been collecting from various cities information concerning special assessment methods and costs. This is being done to determine how Kansas City's procedure compares with that in other cities, and also to discover if certain recognized unsatisfactory methods now in use in Kansas City can be improved. The information being gathered is, within limits, reasonably complete and throws some light on this little-studied subject.

Assessments.—Following some preliminary investigations, which indicated the very lax assessment procedure in Kansas City with resulting great inequalities in assessments, the Institute is preparing to make a more complete study. This is being done in coöperation with the Chamber of Commerce which has expressed an interest in securing a scientific assessment system.

✻

Municipal Reference Bureau, University of Minnesota, and League of Minnesota Municipalities.—The following publications are now in process: (1) the regulation of billboards in Minnesota; (2) a suggested accounting system for villages; and (3) a complete set of forms for the making of street improvements. These bulletins will probably be issued during the next sixty days. Surveys are now being made of the salaries being paid to village officers, the organization of the city and village park departments, and the organization of the city and village water and light departments.

The demand for ordinance revision work by the staff has increased. Ordinance surveys are in progress for one city and three villages at the present time.

An essay contest on the subject of "My Home Town" has been authorized for competition among the students in the high schools and high school departments of the state. It is believed that this contest will result in increased interest in local government among the high school students and will provide a considerable amount of local material for the files of the League.

The organization of the committee work, which is carried on by twenty-seven committees, has just been completed. A particular effort will be made this year to prepare a report upon the revision and codification of the village law. The success of a similar project in the state of New York in the last session of the New York

legislature has stimulated interest in Minnesota. A study of the existing village law made by a member of the League staff last year will be used as a basis for the revision.

*

National Institute of Public Administration.—The Institute has undertaken a preliminary study of fire protection in Greenwich, Conn. The field work will be done by C. Adair Harrell.

On October 13 the staff of the Institute gave a farewell dinner at the City Club to Dr. Charles A. Beard, who is sailing on October 19 to give special assistance to the Yugoslav government. Other guests were Bishop Nicholai of Ochrida, Serbia; Dr. George V. Todorovitch, Consul-General of Yugoslavia; Professor Michael I. Pupin; and Mr. George Radin, secretary of the America-Yugoslav Society.

Dr. Beard goes to Serbia under the joint auspices of the National Institute of Public Administration and the America-Yugoslav Society.

*

Rochester Bureau of Municipal Research.—*Uniform Hospital Accounting System.*—The Bureau has recently been requested to install the uniform hospital accounting system, which it has developed, in another hospital in the city. The system has been in operation in one hospital for nearly a year and has resulted in large, definite savings. As more hospitals adopt uniform accounting methods opportunities for economies will correspondingly increase.

Industrial Survey.—One member of the Bureau staff has been loaned to the new industries bureau of the Chamber of Commerce practically full time to work on an industrial survey of the city. This survey which is to be broad in scope will serve as a working basis for a fundamental program of civic and industrial planning.

*

School of Citizenship and Public Affairs, Syracuse University.—The school has recently issued a 92-page report on *Motor Vehicles and the Highway in New York* by Professors F. G. Crawford and H. W. Peck. The report is based on a study of the social and economic effects of improved highways and the methods of financing them, in five counties of New York state.

Earle Gill, a recent graduate of the school, has started the law firm of Gill and Fitch, of which he is senior member, with headquarters at 412 West Main St., Madison, Wis. The firm will specialize in the codification of municipal ordinances and will be available to any city as consultants in this field.

*

Toronto Bureau of Municipal Research.—Progress is being made on the survey of the parks and playgrounds system in Toronto.

About 150 delegates from the various city, town, village, county and township member municipalities throughout the Province of Ontario attended the convention of the Ontario Municipal Association. The main topic of discussion was the proposed new assessment act for Ontario. Many amendments were suggested. The director of the Bureau is secretary-treasurer of the Association.

The first report dealing with the subject of civic financial control has been issued. The second in the series, which gives the facts in connection with the public service enterprises not administered by appointive boards or commissions, has been finally prepared, and will be issued shortly.

A study of street encroachments has been begun. A questionnaire asking for certain information on this point has been drafted and is being sent to all the more important cities.

Detailed information has been requested from the Dominion Vital Statistics Bureau, as well as from the various Canadian provinces, as to motor fatalities, divided into age grades. A map has been completed showing where possible the exact location of all motor accidents in the city of Toronto over a twelve-month period.

NOTES AND EVENTS

Toledo Elects Charter Commission.—Twenty-nine candidates will fight it out for membership on the charter commission of fifteen to be elected by the voters of Toledo at the November election. Every one of the twenty-nine has signified that he or she favors the city manager plan of government. Toledo now conducts its governmental functions under the strong mayor-council plan.

But of the twenty-nine, fifteen are openly supported by the strong and dominant Republican "machine." The remaining fourteen, together with three of the first fifteen, have been endorsed by the independents.

Readers of the REVIEW will remember that Walter F. Brown, local Republican boss, last January packed the first meeting of the Independent City Manager Association with city and county employees, and thus thwarted the plan of the promoters of the Association to place a city manager charter before the people through the initiative provisions of the state statutes. Instead the "packed" Association induced the city council to submit to the voters at the regular November election the questions of framing a new city charter and electing a charter commission.

Within a month of the last day for filing nominating petitions no candidate had taken out a petition. About the same time the second meeting of the "packed" Independent City Manager Association was called. Only a mere handful of city and county employees and a few of the original promoters were present. The Association went through the formality of picking a nominating committee of twenty-one to select candidates for the charter commission. An attempt was made to place representatives of various sections of the city upon the nominating committee, but for the most part it contained machine-picked men and women.

Up to within two weeks of the last day for filing nominating petitions it appeared that the "machine" candidates were to have a clear field. Then a Citizen's City Manager Association was formed, the membership consisting largely of the original promoters of the Independent City Manager Association. The new organization selected fourteen candidates and endorsed three of those on the opposing slate.

Twelve hundred signatures were necessary to nominate. The machine placed its entire slate on one nominating petition, having been assured by the bi-partisan board of elections that it would approve the petition, although the election laws are not clear upon the subject. The citizen's group circulated individual petitions for each candidate and were successful in procuring the necessary number within the short space of three days.

With twenty-nine candidates in the field, with a definite political grouping of the candidates, and with every indication that the machine will be whipped in the mayoralty contest, the prospects of electing a commission which will provide for the best form of city manager government and possibly P. R. for the election of councilmen are extremely bright.

*

The Results of the Republican primary in Rochester, N. Y. (held September 20), indicate that the Citizens' Republican Committee, which sponsored the new manager charter, will control the first city council. Nomination on the Republican ticket is tantamount to election and the complete rout of the old organization is very gratifying to those who have worked for years to introduce the manager form in Rochester. The Citizen's Committee capture all five councilmen-at-large as well as a majority of the district councilmen. Isaac Adler, a trustee of the Rochester Bureau of Municipal Research and attorney for the charter interests, was successful in his race for councilman-at-large, receiving the second largest vote among all candidates.

*

Transit Workers Insured.—Employees of the Chicago Rapid Transit Company are insured to the extent of $10,595,000, with a maximum protection of $20,445,000, under a group plan put into effect in December, 1926. Each of the 5,683 employees is furnished with double accidental-death insurance in the sum of $1,000, while health and accident insurance providing compensation as high as $20 a week for 26 weeks has been provided for any one disability in any one year.—*Municipal Reference Library Notes.*

*

As an Aid to City Beautification, five Long Island (N. Y.) villages have persuaded the Long

Island Railroad to remove all advertising signs from its stations within their borders. They have also secured an agreement from the real estate agents to substitute for the multiplicity of "for sale" and "to let" signs now disfiguring many properties, one sign bearing the names of all the brokers interested.

⚜

Dr. Delos F. Wilcox has been the center of a raging storm in San Francisco over the question of his retention to make a survey of the Market Street railway franchises. Dr. Wilcox was retained by the unanimous vote of the board of supervisors, but the action was vetoed by Mayor Rolph. At this writing it seems certain that the board will override the veto and engage Dr. Wilcox.

⚜

John C. Lodge, former president of the Detroit council and a member of the N. M. L's 1921 Committee on Election Reform, was nominated in the non-partisan primary for mayor of that city by more than 30,000 votes over his nearest rival, the present mayor, John W. Smith. Mr. Lodge's clear majority over all other contestants amounted to 8,000. Mr. Lodge did not make a single speech or issue a statement during the campaign. He will now contest the election in November with Mayor Smith.

⚜

Knoxville Likes the City Manager Plan.—City manager government as instituted in Knoxville, Tenn., under the leadership of Louis Brownlow, won another victory when the voters elected as councilmen to a majority of the council seats men who were for the city manager administration. It was the voters' answer to political criticism of city manager government and the claim that the people of Knoxville were waiting for the first opportunity to overthrow it.

⚜

City Managers To Meet in South.—Asheville, N. C., was chosen as the meeting place for the 1928 convention of the International City Managers' Association at the annual convention which met in Dubuque in September.

Officers elected for the year 1928 were as follows: President, John N. Edy, Berkeley, Calif., first vice president, F. R. Beechner, Gladstone, Michigan; second vice president, O. A. Cratz, Astoria, Ore.; third vice president W. P. Hunter, Roanoke, Va.

⚜

The Western States Taxpayers' Conference met at Santa Fe, New Mexico, on September 1, 2 and 3. Representatives from Arizona, California, Colorado, Idaho, Nevada, New Mexico, Montana, Oregon, Texas, Utah, Washington and Wyoming attended.

The Conference went on record in urging proper investigation of the problems arising out of the existence of large areas of public domain in the western states; higher qualifications for assessors and other taxing officials, longer tenure of office, better salaries and the abolition of the fee system were favored.

A committee was created to study timber taxation and another to investigate the question of property qualifications for voters on bond issues.

⚜

Permanent Registration is made optional for Ohio cities with a population of more than 25,000 by a new election code passed by the legislature at the last session. The act is chiefly a recodification of the election laws. It abolishes the fee system for election board members and provides an easier recount of ballots.